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The Book of Rights.

**"The good old laws of England;—they
Whose reverend heads with age are gray;
And whose solemn voice must be,
Thine own echo—Liberty!"**

The Book of Rights:
OR,
CONSTITUTIONAL ACTS
AND
PARLIAMENTARY PROCEEDINGS

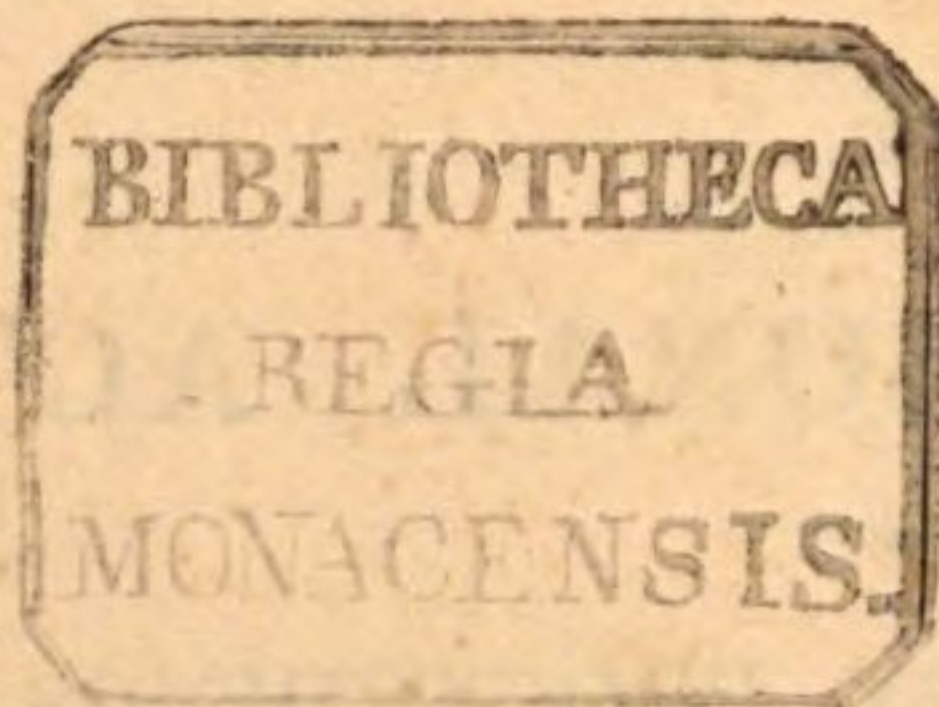
AFFECTING CIVIL AND RELIGIOUS LIBERTY IN
ENGLAND, FROM MAGNA CHARTA TO
THE PRESENT TIME;

HISTORICALLY ARRANGED, WITH NOTES AND OBSERVATIONS,

By EDGAR TAYLOR, F.S.A.



LONDON:
A. MAXWELL, BELL-YARD, LINCOLN'S INN.
M.DCCC.XXXIII.



Printed by ARTHUR TAYLOR, Coleman Street.

TO THE RIGHT HONOURABLE
HENRY LORD BROUGHAM AND VAUX,
LORD HIGH CHANCELLOR
OF ENGLAND,

THIS LITTLE VOLUME IS MOST RESPECTFULLY
DEDICATED.

APPENDIX

The first of the two volumes of the present work contains a full and complete account of the history of the art of printing from its origin to the present time. The second volume contains a full and complete account of the art of bookbinding from its origin to the present time. The first volume is divided into two parts. The first part contains a full and complete account of the history of the art of printing from its origin to the present time. The second part contains a full and complete account of the art of bookbinding from its origin to the present time. The second volume is divided into two parts. The first part contains a full and complete account of the history of the art of bookbinding from its origin to the present time. The second part contains a full and complete account of the art of printing from its origin to the present time.

ADVERTISEMENT.

THE present collection of constitutional documents arose out of a project for merely revising and continuing a little book compiled by Henry Care; which, under the title of "*English Liberties*," was first published soon after the Revolution of 1688, and went through subsequent editions, the last bearing the altered title of "*British Liberties*."

This intention was necessarily entirely abandoned on a closer examination of the defective plan and execution of that book; but meantime, during a protracted period of confinement from ill health, which the employment served to diversify and amuse, the author has arranged the present compilation. He commends it to the candid consideration

of the historical and constitutional enquirer, as supplying within convenient compass many documents which are of the greatest value to English History, but must hitherto have been sought for in bulky volumes not very accessible to the general reader.

E. T.

Inner Temple,
21st March, 1833.

CONSTITUTIONAL ACTS.

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A SELECTION of the principal constitutional laws of England will necessarily commence with the great written convention between king and people which was entered into in the reign of King John, declaring the limits of the regal power and the extent of his subjects' rights; establishing also a precedent for the enforcement of those rights, when the sovereign should be so ill advised as to seek to infringe them.

In our statute book *Magna Charta* is given in the form in which it appears in a charter of *in-speximus* issued by Edward the First, setting forth and confirming a previous charter granted by Henry the Third. Considering the almost religious respect and reverence which we deservedly pay to the very words of these venerable documents, both John's and Henry's charters will be placed at the commencement of our collection. It will be a work of some interest and little dif-

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ficulty to the reader, to compare the two and note the distinctions.

A prominent difference consists in the omission in Henry's charter, as confirmed by Edward, of the provision in that of John, respecting the authority of the common council—*commune concilium*—of the realm in the assessing of scutage, and of the clause which provided for convening that common council or parliament.

It is probably in vain now to enquire into the precise reasons for these omissions. Possibly they are to be sought merely in the hurried informal legislation of the day, which contented itself with providing for the emergency of the moment. There was probably no fear that the monarch would venture to dispense with the usual parliamentary assemblages*; and Henry was so far from pretending to arbitrary taxation that his charter is accompanied by the acceptance of a parliamentary grant. Scutage moreover was determined by it, as being to continue at what it had been in the time of Henry the Second. In Edward's reign abundant provision was made,

* The modifications in the constitutional form of parliament which had been made, and were in progress, since the reign of John, would certainly have rendered the precise clause on that subject inserted in his charter unsuitable to the state of things, at any rate at the date of Edward's. We have extant a writ of 38 Hen. III. (not likely to have been the first), by which a sheriff is directed to cause two knights for the county to be chosen, "*vice omnium et singulorum eorundem*," to meet the king and the *concilium* to settle as to certain aids and commutation of services. The arrangement was one obviously suggested by and acted upon for convenience and dispatch of busi-

independently of his confirmation of the charter of his predecessor, for repressing any pretension of the sort; and, in fact, in one of his confirmations, which we shall extract, and which was granted in the very same year as the confirmation by *inspeximus* of the charter of Henry the Third, he expressly supplies any deficiency by disavowing all taxation except "by common consent of the realm." Whatever the reason therefore might be for omitting to place in Henry's and Edward's charters such provisions in these respects as are contained in that of John, there is no ground for attributing it to any abandonment or neglect on the part of the people of their most cherished and vital privileges.

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It may be added, moreover, that it is doubtful whether the charter of Henry the Third was, even in that king's reign, what was considered emphatically as *the great Charter of Liberties*—the rule of law and government;—for the charter sent to Ireland in the 12th Hen. III. as the great Charter of Liberties, was declared in the accompanying writ to be *the charter of John*; by which it would

ness. The Lords' Committee, in their Third Report, observe, "when the charter of Edward the First was obtained, that clause (the one in John's) would have been inconsistent with the constitution of the legislative assemblies of the realm then clearly established; and its insertion would have been rejected as a gross attempt to violate the established constitution of the government of the realm." As to taxation it may be observed, in addition to what has been observed in the text, that Henry not only resorted to his parliament, or *commune concilium*, for aid, but that they exercised their power (26 Hen. III.) of refusing it, he in return using his of dissolving them.

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appear that this latter was considered the great binding Charter of Rights and Liberties*.

We shall add to these two charters John's Covenant of Security, the Confirmatory Statute of 25 Edw. I. and the curious ecclesiastical sentences by which our ancestors sought further to protect themselves, in times when every sanction was necessary to add efficacy to the maxims of positive constitutional law, when opposed to the aggressions of wanton and self-willed authority.

Much has been written, and many controversies mooted, as to the *forms* in which the people's assent to laws was sought or given in the early epochs of our constitution; and as to the precise æras when our parliaments became, in any sense like that in which the words are now understood, deliberative, legislative, or properly representative. Whatever conclusion we come to as antiquarians on these topics, it seems to us impossible not to recognize, in all times and under all forms, one pervading practical principle of freedom; acting upon which, the people of England never recognized, and their kings never ventured openly to claim, a right to alter the laws or to impose fiscal burdens, save by the assent of the community.

In point of *form* even, however, we cannot admit that there is any very important practical difference between what are called charters under our earlier Norman kings, and what, under their successors,

* Betham's *Dignities Feudal and Parliamentary*, vol. i. p. 71. The writ particularly directs all classes to be sworn, or commanded, after the reading of John's charter, "to hold, observe, and put in force *the said laws and customs of England.*"

gradually assumed forms bearing more decidedly upon the face of them the character of joint legislation on the part of the different constitutional parts of a parliament. John's charter is essentially a "Bill of Rights," tendered by the leaders of his people, assembled, it is true, under circumstances necessarily bearing with them little of the formalities of a parliament* of later days, but probably nearly as much as the rude fashion of the day would have adopted for other purposes. The articles are extant which were tendered on the part of the people and assented to by the king—the more formal document which was to testify the admission of the law on his part being prepared afterwards. In later times it continued to be the practice to agree on the heads of articles, which were afterwards drawn up in form by other parties, and then entered on the parliament or statute roll; and it was not till long afterwards that the commons, finding the inconveniences arising from lax modes of law-making, and complaining of impositions practised upon them by putting words and even laws into their mouths which they never spoke or assented to, insisted on a more regular and systematic mode of transacting business, which gradually ripened into the present forms.

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* If we could warrant Lord Coke's derivation of *parlement* from *speaking one's mind*, this assembly would prove their title etymologically, and Robert Fitzwalter, their general, 'Marshal of God and of the Holy Church in England,' should be their speaker. We have placed in our title page the seal of this successful leader in the establishment of English liberty.

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It is obvious that at first, the people, insisting upon their liberties as ancient and legal customs of the realm, would be solicitous chiefly for their recognition by the king personally; and we can hardly propose any more obvious or convenient form than that which was pursued of getting the king, as the administrative head of the government—the quarter from which aggression, if it arose, must naturally proceed—to declare by letters patent under the great seal, the solemn agreement of king and people, in common assemblage of all parties, as to what was the law of the land. The same form is little less applicable to any changes in the law on which they should agree*.

John, in the convention entered into with his subjects for placing the City of London in their hands as security for performance of his pledges, expressly describes what he had entered into as a matter done between himself as king on the one hand, and the parties there described by name and “*alios comites et barones et liberos homines totius regni*” of the other part. By an express provision of the charter itself, to which we have above alluded, it is clear that the parties were well aware of the proper component parts of the great legislative assemblage of the kingdom, as well as of its importance, and they certainly appear to have entertained no fear of being disavowed as usurpers of legitimate authority by such a parliament.

As early as the 28th Hen. III. we find the great assembly from which John's charter emanated

* Consult Palgrave's *Eng. Commonwealth*, part ii. p. 411-442.

styled in a writ, "*Parliamentum Runnimedæ*." The 25th Edw. I. describes the charter as passed "by the common assent of all the realm." The 15th Edw. III. says it was made "*par le roi, ses piers, et la communalte de la terre*;" and there seems no ground for supposing that there was any material difference—or, at least, that any was considered to exist at the time—between John's charter and that (whichever it was, if it was not in fact John's) which is expressly described in a legal case in 5 Hen. III. *A.D.* 1221, (Fitzh. *Abr.* part. ii. p. 120) as "*lestatut de Magna Carta*."

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In Henry the Third's charter similar words of grant or concession are used, yet this has clearly the character of a statute. It not only bears upon it in words the avowed assent and consent of those who practically represented the whole realm, but it concludes by the grant on their part to the king of a subsidy. In the 52d year of the same reign the charter is clearly, formally, and distinctly confirmed by statute—the statute of Marleberge, — "*convocatis discretioribus regni, tam majoribus quam minoribus*," which the version in our statute book renders "as well of the higher as the lower estate." Yet no substantial distinction was at the time taken between the one mode and the other of making or declaring law. It might be supposed that the statute of Marleberge was passed under the idea that this was a more binding form of legislation; but it is rather inconsistent with this notion, that we find recourse had in the next reign to the old plan, of what is called a charter, with contemporaneous declarations or enactments of the same sort in a

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more expressly statutory form; the charters however expressly declaring that what they confirmed was and should be "the common law;" and asserting the fact, that the preceding king's instruments of the same sort were "made by the common assent of all the kingdom in the time of King Henry our father."

There is clearly, both in form and substance, on all hands, an assumption from the earliest times, not only of the propriety and necessity of popular concurrence in any changes of the law, but of the subject matter of these *grants* on the part of the kings being no new *concession* or limitation of his prerogative, but as living in the memory of all as the ancient and approved customs of the realm, under which all kings professed, and in fact bound themselves by express contract, to rule, and which they only broke through when circumstances induced them to make the attempt, with a prospect of temporary impunity.

From the earliest days of the Conquest the English at every favourable opportunity claimed, and their kings, beginning with William himself, conceded their right, to be governed by certain good old laws which were dear to the memory of the ancient people of the land, and were soon found to be equally acceptable in most respects to the new inhabitants. These were usually claimed as the laws asserted to have been collected and revised under Edward the Confessor. From the same period all alterations of the law professed to have the assent of those who were to be affected by them.

William the Conqueror, whom the *Saxon Chro-*

nicle (*A.D.* 1066) states that Archbishop Aldred would not crown till he had sworn "that he would govern this country as well as any king before him best did," renounces in his charter (printed in Rymer's *Fœdera*), all taxation made without the consent of the "*commune concilium regni*," and promises to govern by the old laws, except as they had been expressly altered for the public benefit. "We will and firmly command and grant that all the freemen of the whole monarchy of our kingdom aforesaid have and hold their lands and possessions well and in peace, free of all unjust exaction, and of all talliage; so that nothing be exacted or taken from them, except their free service, which of right they ought to make to us, and are held to make, and as hath been decreed to them, and to them by us given and granted, by hereditary right, for ever, by the common council of our whole kingdom aforesaid. This also we command, that all have and hold the law of Edward the king, in all things, *audactis hiis quas constituimus ad utilitatem Anglorum*."

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What William's parliamentary assembly precisely was, it is practically, perhaps, as useless as it may be difficult to decide. It was at least a convention of those, whoever they were, who in that state of society carried with them the general assent of the nation when they gave their concurrence. The *Saxon Chronicle* (*A.D.* 1087) describes William as three times in every year meeting his witan: "all the rich (or great) men over all England, archbishops and diocesan bishops, abbots and earls, thanes and knights:" a pretty sufficient assemblage to bear fitly the

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title and honour of "the common council of the kingdom." Under Henry the First this chronicle (*A.D.* 1102) describes the same assembly as comprising all the "*heafod men*" of the land, both clerical and lay, the former of whom then held a synod and established canons; and (*A.D.* 1123) it describes the meeting as convened by the king's "writ sent over all England," commanding "all his bishops, and his abbots, and his thanes, to come to his *gewitene-mot* on Candlemas day at Gloucester to meet him;" the same meeting being called (*A.D.* 1125) his "*concilie*," and (*A.D.* 1127, as several times before) his "*hird*" or court. In the reigns of William Rufus and Henry the First we find the *Saxon Chronicle* (*A.D.* 1090 and 1116 and subsequent years) expressly complaining of "*unlaga gelde*," illegal taxation, as a calamity which had come upon the land.

Henry the First*, Stephen†, and Henry the Second, in successive charters, with more or less precision recognized the principle, that the people were entitled to certain rights, privileges, and customs descended from old times; and to be ruled by the laws called Edward the Confessor's, as modified under the Conqueror, not of his own

* "*Lagam Edwardi regis vobis reddo, cum illis emendationibus quibus pater meus eam emendavit consilio baronum suorum.*"—Rymer's *Fædera*, vol. i.

† "*Sciatis me concessisse et presenti cartâ meâ confirmasse omnibus baronibus et hominibus meis omnes libertates et bonas leges quas Henricus rex Angliæ avunculus meus eis dedit et concessit; et omnes bonas leges et bonas consuetudines eis concedo quas habuerunt tempore regis Edwardi.*"—Rymer's *Fædera*, vol. i.

motion, but "*consilio baronum suorum*," as Henry the First expresses it. Henry is described in the *Saxon Chronicle* (*A.D.* 1100) as swearing at his coronation to redress his brother's illegal acts, and "to hold the best laws that stood in any king's days before him." No one now pretends to be able to define what these laws and customs, so perpetually referred to, precisely were; though, according to Matthew Paris, Langton and the barons put John under obligation to revive the old and salutary laws of the realm, expressly describing them as those of the Confessor; and they may be supposed subsequently, in the articles tendered and finally assented to at Runnymede, to have embodied what they considered to be the substance and effect of those laws, and the restrictions which their spirit rendered it necessary to impose on the grievances arising out of Norman legal innovations. But however this may be, and however probable the supposition that under a vague description was covered whatever was from time to time found necessary for the assertion of practical liberty and the effectual restraint of arbitrary and encroaching aggression, no one can, as we conceive, read our history right, or examine with any care the style and character of the ancient assertions by the people, and recognitions by the kings, of the main features of practical constitutional liberty, without a conviction that certain great principles (of which all that subsequently assumed the form of precise laws were the legitimate developments), were deeply treasured in the memory and affections of all classes of the community, and were insisted

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upon in practice with the most persevering consistency; that these formed the recognized maxims of policy in the earliest parliamentary assemblies; and that the latter were in all periods so far legislative, and even deliberative, that no alteration in the laws of the realm was ever made, or pretended to be able to be made, with legal validity, unless by their express assent.

Yet we have historians and constitutional enquirers, who seek more for words than things, and who, if they find no sufficient evidence of the phraseology and formalities of modern legislation, would persuade us that the substance of popular assent to laws never existed. We are told even by so able and interesting but partial a writer as Sir William Betham, that the English kings, before Henry the Third, asked and received the advice of the common council of the realm, but "followed it or not at their pleasure," and that "no deliberative assembly existed till Edward the First." Now, certainly it cannot be denied that our kings, when they were strong enough to throw off restraint, were apt to try to do so;—that they acted like other strong men of those days, and often practically showed the weakness of mere positive laws, breaking through every obligation however sacred, either imposed on them by others or undertaken by themselves; but it is clearly not true that they pretended any other right so to act than that which might conferred; nor that the people of England ever hesitated to signify "their pleasure" on the other hand, to repress and punish such acts, as transgressions against the acknowledged law of the land. Under such circumstances

it is difficult to say how any one "can fairly consider as part of our ancient constitution what every parliament remonstrated against, and the statute book is full of enactments to repress."

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We are anxious, on the other hand, not to fall into the common mistake of fancying, that, if words and phrases are occasionally met with in very early days similar to those familiar to us in later ages, we have any right to assign to them as a matter of course the same significations; in other words, to imagine that because we trace the name we establish the existence of the thing itself, with all the associations which a different modification of society has attached to it. On the contrary, we trace the progress and gradual maturity of our commonwealth with the greater pleasure and interest, from watching it in its rude and often apparently accidental developments. We are not even disturbed in our reverence for an early landmark of our liberties, by an attempt to convince us that its construction had probably personal and selfish interests more in view than motives of general and diffusive patriotism. We are not confounded in our faith as to the necessity of the peoples' assent to all laws which are to bind them, and to all burdens which they are to bear, or as to their right to the fair and equal trial which must precede the inflictions of executive justice, when we perceive antiquarian difficulties in defining the modes in which the assent of the community was ascertained, or the law practically administered—in settling the constituent parts and distinctions of the assemblages which are found, under various appellations, at different

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times, performing legislative functions—in determining the difference, if any, between a charter of the king, announcing law, with the assent and at the request of his parliament, and a statute in which all purport to join in the declaration—or in fixing the precise æras and phases of appearance, out of which, by a constant adaptation of institutions to the new aspects of society, all classes of the community became at last permanently represented in the modern constitution of parliaments. One of our wisest historians and statesmen, Sir James Mackintosh, has most justly observed, that “ governments are not framed after a model, but that all their parts and powers grow out of occasional acts prompted by some urgent expediency, or some private interest, which, in the course of time, coalesce and harden into usages ; and that this bundle of usages is the object of respect, and the guide of conduct, long before it is embodied, defined, and enforced in written laws.” Thus were the great principles of English constitutional law enshrined in the affections of the people, and thus did they practically mould up our institutions, as occasion called forth the active interference of those who from time to time were most interested in their observance. Diversity of action on these principles, with the same general end in view even in the most unsettled times, is the strongest evidence of the feeling entertained on all hands as to the general rule of obligation. With the gradual establishment and defining of parliamentary authority these great principles are everywhere seen growing up, constantly strengthening, and more

and more fixed with every change in society and political institutions. If prerogative at a favourable moment rears its head, popular energy is in no long time actively in the field to confront and curb it. If at any time it be difficult to discover a well-guarded and practically enforced system of civil liberty, it is certainly much more difficult to point to any period when that liberty was denied to be the end and practical rule of government; when the peoples' right to require and enforce its observance was openly disputed; or when any popular weakness was not referable in a great degree to the infirmity necessarily attending all law in rude and turbulent times. It would be well if we bore in mind how strong an ally law has, in modern times, obtained in the powerful and constantly active restraint of public opinion, and how weak under other circumstances even the wisest precautions will be found to be, in the actual repression of wilful and selfish aggressions on the part of men whom circumstances at any time place above the restraint of actual force.

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All that we could add on the particular and special value of the glorious document which stands at the head of our constitutional list has been so well said by Mr. Hallam, that his words will form the best conclusion to these observations.

“The institutions of positive law, the far more important changes which time has wrought in the order of society during six hundred years subsequent to the Great Charter, have undoubtedly lessened its direct application to our present circumstances. But it is still the key-stone of

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English liberty. All that has since been obtained is little more than as confirmation or commentary; and if every subsequent law were to be swept away, there would still remain the bold features that distinguish a free from a despotic monarchy. It has been lately the fashion to depreciate the value of *Magna Charta* as if it had sprung from the private ambition of a few selfish barons, and redressed only some feudal abuses. It is indeed of little importance by what motives those who obtained it were guided. The real characters of men most distinguished in the transactions of that time are not easily determined at present. Yet, if we bring these ungrateful suspicions to the test, they prove destitute of all reasonable foundation. An equal distribution of civil rights to all classes of freemen forms the peculiar beauty of the charter. In this just solicitude for the people, and in the moderation which infringed upon no essential prerogative of the monarchy, we may perceive a liberality and patriotism very unlike the selfishness which is sometimes rashly imputed to those ancient barons. And, as far as we are guided by historical testimony, two great men, the pillars of our church and state, may be considered as entitled beyond the rest to the glory of this monument; Stephen Langton, archbishop of Canterbury, and William, earl of Pembroke. To their temperate zeal for a legal government, England was indebted during that critical period for the two greatest blessings that patriotic statesmen could confer; the establishment of civil liberty upon an immoveable basis, and the preservation

of national independence under the ancient line of sovereigns, which rasher men were about to exchange for the dominion of France.

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“ By the *Magna Charta* of John, reliefs were limited to a certain sum according to the rank of the tenant, the waste committed by guardians in chivalry restrained, the disparagement in matrimony of female wards forbidden, and widows secured from compulsory marriage. These regulations, extending to the sub-vassals of the crown, redressed the worst grievances of every military tenant in England. The franchises of the city of London and of all towns and boroughs were declared inviolable. The freedom of commerce was guaranteed to alien merchants. The court of Common Pleas, instead of following the king's person, was fixed at Westminster. The tyranny exercised in the neighbourhood of royal forests met with some check, which was further enforced by the Charter of Forests under Henry the Third.

“ But the essential clauses of *Magna Charta* are those which protect the personal liberty and property of all freemen, by giving security from arbitrary imprisonment and arbitrary spoliation. ‘ No freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed ; nor will we pass upon him, nor send upon him, but by lawful judgement of his peers, or by the law of the land. We will sell to no man, we will not deny or delay to any man, justice or right.’ It is obvious that these words, interpreted by any honest court of law, convey an

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ample security for the two main rights of civil society. From the æra, therefore, of King John's charter, it must have been a clear principle of our constitution, that no man can be detained in prison without trial. Whether the courts of justice framed the writ of *Habeas corpus* in conformity to the spirit of this clause, or found it already in their register, it became from that æra the right of every subject to demand it. That writ, rendered more actively remedial by the statute of Charles the Second, but founded upon the broad basis of *Magna Charta*, is the principal bulwark of English liberty; and if ever temporary circumstances, or the doubtful plea of political necessity, shall lead men to look on its denial with apathy, the most distinguishing characteristic of our constitution will be effaced.

“As the clause recited above protects the subject from any absolute spoliation of his freehold rights, so others restrain the excessive amercements which had an almost equally ruinous operation. The magnitude of his offence must be the measure of his fine; and in every case the *contenement* (a word expressive of chattels necessary to each man's station, as the arms of a gentleman, the merchandize of a trader, the plough and waggons of a peasant) was exempted from seizure. A provision was made in the charter of John, that no aid or escuage should be imposed, except in the three feudal cases of aid, without consent of parliament. And this was extended to aids paid by the city of London. But the clause was omitted in the three charters granted by Henry the Third; though parliament

seem to have acted upon it in most part of his reign. It had, however, no reference to tallages imposed upon towns without their consent. Fourscore years were yet to elapse before the great principle of parliamentary taxation was explicitly and absolutely recognized.

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“ A law which enacts that justice shall neither be sold, denied, nor delayed stamps with infamy that government under which it had become necessary. But from the time of the charter, according to Madox, the disgraceful perversions of right, which are upon record in the rolls of the Exchequer, became less frequent.

“ From this æra a new soul was infused into the people of England. Her liberties, at the best long in abeyance, became a tangible possession, and those indefinite aspirations for the laws of Edward the Confessor were changed into a steady regard for the Great Charter. Pass but from the history of Roger de Hoveden to that of Matthew Paris, from the second Henry to the third, and judge whether the victorious struggle had not excited an energy of public spirit to which the nation was before a stranger. The strong man, in the sublime language of Milton, was aroused from sleep, and shook his invincible locks*.”

* *State of Europe during the Middle Ages*, vol. ii. p. 447.

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JOHN, by the grace of God, King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Earl of Anjou : to his archbishops, bishops, abbots, earls, barons, justiciaries, foresters, sheriffs, governors, officers, and to all his bailiffs and liege men, greeting. Know ye that we, in the presence of God, and for the health of our soul and the souls of our ancestors and heirs, and to the honour of God and the exaltation of his holy church, and amendment of our kingdom, by advice of our venerable fathers Stephen archbishop of Canterbury, primate of all England and cardinal of the holy Roman church, Henry archbishop of Dublin, William of London, Peter of Winchester, Jocelin of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, and Benedict of Rochester, bishops ; master Pandulph our lord the Pope's sub-deacon and ancient servant ; brother Aymeric master of the Temple in England, and the noble persons William Marescall earl of Pembroke, William earl of Salisbury, William earl of Warren, William earl of Arundel, Alan de Galoway constable of Scotland, Warin Fitz-Gerald, Peter Fitz-Herebert, Hubert de Burgh senechal of Poictou, Hugh de Neville, Matthew Fitz-Herebert, Thomas Basset, Alan Basset, Philip de Albiney, Robert de Roppelay, John Marescall, John Fitz-Hugh, and others our liegemen ; have in the first place granted to God, and by this our present charter confirmed, for us and our heirs for ever : That the church of England shall be free and enjoy her whole rights and liberties inviolable. And we will have them so to be observed, which appears from hence, that the freedom of elections, which was reckoned most necessary for the church of England, of

The church.

our own free will and pleasure we granted and confirmed by our charter, and obtained the confirmation thereof from Pope Innocent the Third, before the discord between us and our barons, which charter we will observe, and do will it to be faithfully observed by our heirs for ever.

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2. We have also granted to all the freemen of our kingdom, for us and our heirs for ever, all the underwritten liberties, to have and to hold to them and their heirs, of us and our heirs.

Liberties to
freemen.

3. If any one of our earls or barons, or others who hold of us *in capite* by military service, shall die, and at the time of his death his heir shall be of full age and owe a relief, he shall have his inheritance by the ancient relief; that is to say, the heir or heirs of an earl, for a whole earl's barony, by an hundred pounds; the heir or heirs of a baron, for a whole barony, by an hundred pounds [marks?]; the heir or heirs of a knight, for a whole knight's fee, by an hundred shillings at most; and he that oweth less shall give less, according to the ancient custom of fees.

Reliefs.

4. But if the heir of any such shall be under age, and shall be in ward, when he comes of age he shall have his inheritance without relief or without fine.

5. The warden of the land of such an heir who shall be under age shall take of the land of such heir only reasonable issues, reasonable customs, and reasonable services; and that without destruction and waste of the men or things. And if we shall commit the guardianship of these lands to the sheriff, or any other, who is answerable to us for the issues of the land, and if he shall make destruction and waste upon the ward-lands, we will compel him to give satisfaction; and the land shall be committed to two lawful and discreet tenants of that fee, who shall be answerable for the issues to us, or to him whom we shall assign. And if we shall give or sell the wardship of any such lands to any one, and he makes destruction or waste upon them, he shall lose the wardship, which shall be committed to two lawful and discreet tenants of that fee, who shall in like manner be answerable to us, as hath been said.

Wardships.

JOHN.
1199-1216.
Wards'
lands.

6. But the warden, so long as he shall have the wardship of the land, shall keep up and maintain the houses, parks, warrens, ponds, mills, and other things pertaining to the land, out of the issues of the same land; and shall restore to the heir, when he comes of full age, his whole land stocked with ploughs and carriages, according as the time of wainage shall require, and the issues of the land can reasonably bear.

Marriage
of heirs.

7. Heirs shall be married without disparagement; so as that, before matrimony shall be contracted, those who are nearest to the heir in blood shall be made acquainted with it.

Widows.

8. A widow, after the death of her husband, shall forthwith, and without any difficulty, have her marriage, and her inheritance; nor shall she give anything for her dower, or her marriage, or her inheritance, which her husband and she held at the day of his death. And she may remain in the house of her husband forty days after his death; within which term her dower shall be assigned.

Marriage.

9. No widow shall be distrained to marry herself so long as she wills to live without a husband. But she shall give security that she will not marry without our assent, if she holds of us; or without the consent of the lord of whom she holds, if she holds of another.

Crown deb-
tors.

10. Neither we nor our bailiffs shall seize any land or rent for any debt, so long as there shall be chattels of the debtor's upon the premises, sufficient to pay the debt. Nor shall the sureties of the debtor be distrained, so long as the principal debtor is sufficient for the payment of the debt.

Sureties.

11. And if the principal debtor fail in the payment of the debt, not having wherewithal to discharge it, then the sureties shall answer the debt; and, if they will, they shall have the lands and rents of the debtor until they shall be satisfied for the debt which they paid for him, unless the principal debtor can show himself acquitted thereof, against the said sureties.

Debts to the
Jews.

12. If any one have borrowed anything of the Jews, more or less, and dies before the debt be satisfied, there shall be no interest paid for that debt so long as the heir is under age, of whomsoever he may hold: and, if the

debt falls into our hands, we will take only the chattels mentioned in the bond.

JOHN.
1199-1216.

13. And if any one shall die indebted to the Jews, his wife shall have her dower, and pay nothing of that debt; and if the deceased left children under age, they shall have necessaries provided for them according to the tenement of the deceased, and out of the residue the debt shall be paid; saving however the service of the lords. In like manner let it be with the debts due to other persons than Jews.

14. No scutage or aid shall be imposed in our kingdom unless by the common council of our kingdom, except to redeem our person, and to make our eldest son a knight, and once to marry our eldest daughter; and for these there shall only be paid a reasonable aid.

No scutage
but by the
common
council.

15. In like manner it shall be concerning the aids of London. the city of London; and the city of London shall have all its ancient liberties and free customs, as well by land as by water.

16. Furthermore, we will and grant that all other cities and boroughs, and towns and ports, shall have all their liberties and free customs.

Liberties of
towns.

17. And for the holding the common council of the kingdom to assess aids (except in the three cases aforesaid), and for the assessing of scutages, we will cause to be summoned the archbishops, bishops, abbots, earls, and great barons of the realm singly by our letters; and furthermore, we will cause to be summoned in general, by our sheriffs and bailiffs, all others who hold of us *in capite*, at a certain day, that is to say, forty days (before their meeting) at least, and to a certain place; and in all letters of such summons we will declare the cause of the summons. And summons being thus made, the business shall proceed on the day appointed, according to the advice of such as shall be present, although all that were summoned come not.

Summoning
the common
council.

18. We will not for the future grant to any one that he may take aid of his own free tenants, unless to redeem his body, and to make his eldest son a knight, and once to marry his eldest daughter; and for these there shall only be paid a reasonable aid.

No grant of
illegal aids.

JOHN.
1199-1216.

Services.

Common
Pleas.

Assizes.

19. No man shall be distrained to perform more service for a knight's fee, or other free tenement, than is due from thence.

20. Common Pleas shall not follow our court, but shall be holden in some certain place.

21. Trials upon the writs of *Novel disseisin*, of *Mort d'ancestor*, and of *Darrein presentment*, shall be taken only in their proper counties, and after this manner: We, or (if we shall be out of the realm) our chief justiciary, shall send two justiciaries through every county four times a year; who with four knights chosen out of every shire by the people, shall hold the said assizes in the county, on the day and at the place of the county.

22. And if the aforesaid assizes cannot be determined on the county day, so many of the knights and freeholders as have been present shall be appointed to decide them, as shall be sufficient to make the judgements, according as there shall be more or less business.

Amercia-
ments.

23. A free man shall not be amerced for a small offence but according to the degree of the offence, and for a great offence in proportion to the heinousness of it, saving to him his contenement; and after the same manner a merchant, saving to him his merchandize; and a villain shall be amerced after the same manner, saving to him his wainage, if he falls under our mercy; and none of the aforesaid amerciaments shall be assessed but by the oath of honest men of the neighbourhood.

24. Earls and barons shall not be amerced but by their peers, and according to the degree of the offence.

25. No clerk shall be amerced for his lay tenement but according to the proportion of the aforesaid, and not according to the value of his ecclesiastical benefice.

Bridges.

26. Neither a town, nor any person, shall be distrained to make bridges over rivers, unless that anciently and of right they are bound to do it.

Pleas of the
crown.

27. No sheriff, constable (of a castle), coroners, or other our bailiffs, shall hold pleas of the crown.

Farms.

28. All counties, hundreds, wapentakes, and trethings shall stand at the old farms, without any encrease, except in our demesne manors.

Debts to the
king.

29. If any one that holds of us a lay fee dies, and the

sheriff or our bailiff show our letters patent of our summons concerning the debt due to us from the deceased, it shall be lawful for the sheriff or our bailiff to attach and register the chattels of the deceased found upon his lay-fee, to the value of the debt, by the view of lawful men, so that nothing be removed until our whole debt be paid; and the rest shall be left to the executors to fulfil the will of the deceased: and if there be nothing due from him to us, all the chattels shall remain to the deceased, saving to his wife and children their reasonable shares.

JOHN.
1199-1216.

30. If any freeman die intestate, his chattels shall be distributed by the hands of his nearest relations and friends, by view of the church, saving to every one the debts which the deceased owed him. Intestate's
chattels.

31. No constable or other bailiff of ours shall take corn or other chattels of any man unless he presently gives him money for it, or hath respite of payment from the seller. Purveyance.

32. No constable (of a castle) shall distrain any knight to give money for castle-ward if he himself shall do ward in his own person, or by another able man in case he shall be hindered by any reasonable cause. And if we shall have led or sent him to the army, he shall be free from castle-ward for the time he shall be in the army by our command. Castle-ward.

33. No sheriff or bailiff of ours, or any other, shall take horses or carts of any freeman for carriage, unless with the consent of that freeman. Wainage.

34. Neither shall we or our officers or others take any man's timber for our castles, or other uses, unless by the consent of the owner of the timber. Timber.

35. We will retain the lands of those that are convicted of felony but one year and a day, and then they shall be delivered to the lord of the fee. Felons'
lands.

36. All wears for the time to come shall be demolished in the rivers Thames and Medway, and throughout all England, except upon the sea-coast. Wears.

37. The writ which is called *Præcipe*, for the future, shall not be granted to any one of any tenement whereby a freeman may lose his court. *Præcipe in
capite.*

38. There shall be one measure of wine and one of ale through our whole realm; and one measure of corn, Measures.

JOHN.
1199-1216.

that is to say, the London quarter ; and one breadth of dyed cloth and russets and haberjects, that is to say, two ells within the list ; and the weights shall be as the measures.

Inquisitions. 39. From henceforward nothing shall be given or taken for a writ of inquisition, from him that desires an inquisition of life or limb, but it shall be granted *gratis*, and not denied.

King's tenants.

40. If any one holds of us by fee-farm, or socage, or burgage, and holds lands of another by military service, we will not have the wardship of the heir or land which belongs to another man's fee, by reason of what he holds of us by fee-farm, socage, or burgage ; nor will we have the wardship of the fee-farm, socage, or burgage, unless the fee-farm owe military service.

41. We will not have the wardship of an heir, nor of any land which he holds of another by military service, by reason of any petit serjeanty he holds of us, by the service of giving us daggers, arrows, or the like.

No putting to law without witness.

42. No bailiff for the future shall put any man to his law upon his single accusation, without credible witnesses produced to prove it.

43. No freeman shall be taken, or imprisoned, or dis-seised, or outlawed, or banished, or anyways destroyed ; nor will we pass upon him nor send upon him*, unless by lawful judgement of his peers or by the law of the land.

Justice.

44. We will sell to no man, we will not deny or delay to any man, right or justice.

Merchant-strangers.

45. All merchants shall have safe and secure conduct to go out of and come into England ; and to stay there, and to pass as well by land as water, to buy and sell by the ancient and allowed customs without any evil tolls, except in time of war, and when they shall be of any nation in war with us. And if there shall be found any such in our land in the beginning of a war, they shall be attached, without damage to their bodies or goods, until it may be known unto us or our chief justiciar how our

* Lord Coke says this means " we will not condemn him in our court before us, nor by any judge sent by us."

merchants be treated in the nation at war with us : and if ours be safe there the others shall be safe in our land.

JOHN.
1199-1216.

46. It shall be lawful for the time to come for any one to go out of our kingdom, and return safely and securely by land or by water, saving his allegiance to us, unless in time of war, by some short space for the common benefit of the kingdom, except prisoners and outlaws (according to the law of the land), and people in war with us, and merchants who shall be in such condition as is above mentioned.

47. If any man hold of any escheat, as of the honour of Wallingford, Nottingham, Bologne, Lancaster, or of other escheats which are in our hands and are baronies, and shall die, his heir shall not give any other relief, or perform any other service to us, than he would to the baron, if the barony were in possession of the baron ; and we will hold it after the same manner the baron held it. Tenure in escheats.

48. Men who dwell without the forest from henceforth shall not come before our justiciars of the forest upon common summons, save such as are impleaded, or are pledges for any that were attached for something concerning the forest.

49. We will not make any justiciars, constables, sheriffs, or bailiffs but of such as are knowing in the law of the realm, and are disposed duly to observe it.

50. All barons who are founders of abbeys, and have charters thereof of the kings of England, or are entitled by ancient tenure, shall have the custody of them, when void, as they ought to have. Abbeys.

51. All forests that have been so made in our own time shall forthwith be disafforested ; and the like shall be done with the banks that have been put in defence by us during our reign. Forests.

52. All evil customs concerning forests, warrens, and foresters, warreners, sheriffs and their officers, banks and their keepers, shall forthwith be enquired into in each county, by twelve sworn knights of the same shire, chosen by the good men of the same county ; and within forty days after the said inquest shall be utterly abolished, so as never to be restored, so that we be first informed of it, our justiciar if we are not in England. Inquests of evil customs.

JOHN.
1199-1216.
Hostages.

53. We will immediately give up all hostages and charters, delivered unto us by Englishmen as securities for their keeping the peace and yielding us faithful service.

54. We will entirely remove from their bailiwicks the relations of Gerard de Athyes, so as that for the future they shall have no bailiwick in England. We will also remove Engelard de Cygony, Andrew, Peter, and Gyon de Cancell', Gyon de Cygony, Geoffrey de Martyn and his brothers, Philip Mark and his brothers, and his nephew Geoffrey, and their whole retinue.

Foreign soldiers.

55. And as soon as peace is restored, we will send out of the kingdom all foreign soldiers, cross-bow men, and stipendiaries, who are come with horses and arms to the injury of the kingdom.

Restoration of lands.

56. If any one hath been dispossessed or deprived by us, without the legal judgement of his peers, of his lands, castles, liberties, or right, we will forthwith restore them to him; and if any dispute arise upon this head, the matter shall be decided by the five-and-twenty barons hereafter mentioned for the preservation of the peace.

Respites during the crusade.

57. As for those things of which any person has, without the legal judgement of his peers, been dispossessed or deprived, either by King Henry our father, or our brother King Richard, and which we have in our hands, or which are possessed by others, and which we are bound to warrant and make good, we shall have a respite till the term usually allowed the crusaders; excepting those things about which there was a suit depending, or whereof an inquest had been made by our writ, before we undertook the crusade. But when we return from our pilgrimage, or if we do not go upon it, we will immediately cause full justice to be administered therein.

Respite as to forests, &c.

58. The same respite we shall have for doing justice as to disafforesting or continuing forests which Henry our father or our brother Richard have afforested; and as to the wardships of lands which are in another's fee, and of which we have hitherto had wardship by reason of any holding of us by knight's service; and as to the abbeys founded in any other fee than our own, in which the lord of the fee claims a right. And when we return from our pilgrimage, or if we shall not go upon it, we will im-

mediately do full justice to all the complainants in this behalf.

JOHN.
1199-1216.

59. No man shall be taken or imprisoned upon the appeal of a woman, for the death of any other man than her husband.

Appeal of death.

60. All unjust and illegal fines, and all amerciaments imposed unjustly and contrary to the law of the land, shall be entirely forgiven; or else be left to the decision of the five-and-twenty barons hereafter mentioned for the preservation of the peace, or of the major part of them, together with the aforesaid Stephen archbishop of Canterbury, if he can be present, and others whom he shall think fit to take along with him; and if he cannot be present, the business shall notwithstanding go on without him; but so that, if one or more of the aforesaid five-and-twenty barons be parties in the same cause, they shall be set aside so far as concerns that judgement, and others be chosen in their room by the rest of the said five-and-twenty, and sworn to decide that matter.

Unlawful
fines remitted.

61. If we have disseised or dispossessed Welshmen of any lands or liberties or other things, without the lawful judgement of their peers in England or in Wales, they shall immediately be restored to them; and if any dispute arises upon this head, the matter shall be determined in the March, by the judgement of their peers; for tenements in England according to the law of England, for tenements in Wales according to the law of Wales, for tenements in the March according to March law. The same shall the Welsh do to us and ours.

The Welsh.

62. As for all those things of which any Welshman hath, without the legal judgement of his peers, been disseised or deprived by King Henry our father, or our brother King Richard, and which we either have in our hands or which others are possessed of, and which we are bound to warrant, we shall have a respite till the time generally allowed the crusaders; excepting those things about which a suit was depending, or whereof an inquest had been made by our writ, before we undertook the crusade. But when we return, or if we do not go upon our pilgrimage, we will immediately do them full justice according to the laws of the Welsh, and the parts aforementioned.

Respites as to Welsh.

JOHN.
1199-1216.
Welsh host-
ages.
King of
Scots.

Same liber-
ties to sub-
tenants.

Security.

63. We will without delay dismiss the son of Lewelin and all the Welsh hostages, and release them from the charters they entered into to us for the preservation of the peace.

64. We shall do to Alexander king of the Scots, concerning the restoring of his sisters and hostages, and his right and liberties, in the same manner as we shall do to the rest of our barons of England ; unless by the charters which we have of his father William, late king of the Scots it ought to be otherwise ; and this shall be left to the determination of his peers in our court.

65. All the aforesaid customs and liberties which we have granted to be holden in our kingdom, as much as belongs to us, towards our men, all of our kingdom, as well clergy as laity, shall observe, as far as they are concerned, towards their men.

66. And whereas, for the honour of God and the amendment of our kingdom, and for quieting the discord that has arisen between us and our barons, we have granted all the things aforesaid ; We, willing to render them firm and lasting, do make and grant to them the following security ; namely, that the barons may choose five-and-twenty barons of the kingdom, whom they think convenient, who shall take care, with all their might, to hold and observe, and cause to be observed, the peace and liberties we have granted them and by this our present charter confirmed. So as that, if we, our justiciar, our bailiffs, or any of our servants, shall in any case fail in the performance of them towards any person, or shall break through any of these articles of peace and security, and the offence is notified to four barons of the five-and-twenty aforementioned, the said four barons may repair to us, or our justiciar if we are out of the realm, and laying open the grievance, may petition to have it redressed without delay ; and if it is not redressed by us, or, if we should chance to be out of the realm, if it is not redressed by our justiciar within forty days, reckoning from the time it has been notified to us, or to our justiciar if we should be out of the realm, the four barons aforesaid may lay the cause before the rest of the five-and-twenty barons ; and the said five-and-twenty barons, together with the communalty of the whole land, may distrain

and distress us all the ways possible, namely, by seizing our castles, lands, possessions, and in any other ways they can, till the grievance is redressed according to their judgement, saving harmless our own person and the person of our queen and children; and when it is redressed they shall obey us as before*. And any person whatsoever in the kingdom may swear that he will obey the orders of the five-and-twenty barons aforesaid, in the execution of the premises, and that he will distress us, jointly with them, to the utmost of his power; and we give public and free liberty to any one that will swear to them, and will never hinder any person from taking such oath. But as for all those of our subjects who will not, of their own accord, swear to the five-and-twenty barons concerning distraining and distressing us, we will issue our order to them to take the same oath as aforesaid. And if any one of the five-and-twenty barons dies, or goes out the kingdom, or is hindred any other way from putting the things aforesaid in execution, the rest of the said five-and-twenty-barons may choose another in his room, at their discretion, who shall be sworn in like manner as the rest.

JOHN.
1199-1216.

67. In all things that are committed to the charge of the said five-and-twenty barons, if, when they are all assembled together, they should happen to disagree about any matter, or some of them, when summoned, will not or cannot come, whatever is agreed upon or enjoined by the major part of those who are present shall be held as firm and valid as if all the five-and-twenty had given their consent; and the aforesaid five-and-twenty may swear that all the premises they shall faithfully observe, and cause with all their power to be observed.

Majority may
act.

* There is nothing extraordinary in this article. By the laws both of Castille and Arragon express provision was made for the subjects resisting and controlling the king in case of breach of his duty. A capitulary of Charles the Bald permits his subjects to assist one another and combine against him if he infringed their liberties, or was guilty of injustice and refused to amend. Baluz. ii. 82; Hallam, *Middle Ages*, ii. 68.

JOHN.
1199-1216.
Liberties not
to be revo-
ked.

Amnesty.

68. And we will not, by ourselves or others, procure anything, whereby any of these concessions and liberties be revoked or lessened; and if any such thing be obtained let it be null and void, neither shall we ever make use of it, either by ourselves or any other.

69. And all ill-will, anger, and malice, arisen between us and our subjects of the clergy and laity, from the first breaking out of the dissension between us, we do fully remit and forgive. Moreover, all trespasses occasioned by the said dissension, from Easter in the sixteenth year of our reign till the restoration of peace and tranquillity, we hereby entirely remit to all, clergy as well as laity, and, as far as in us lies, do fully forgive.

70. We have moreover caused to be made to them letters patent testimonial of Stephen lord archbishop of Canterbury, Henry lord archbishop of Dublin, and the bishops aforesaid, as also of master Pandulph, concerning the security and concessions aforesaid.

71. Wherefore we will and firmly enjoin, that the church of England be free, and that all men in our kingdom have and hold all the aforesaid liberties, rights, and concessions, well and in peace, freely and quietly, fully and wholly, to them and their heirs, of us and our heirs, in all things and places for ever as aforesaid.

72. It is also sworn, as well on our part as on the part of the barons, that all the things aforesaid shall faithfully and sincerely be observed.

Given under our hand in the presence of the witnesses abovenamed, and many others, in the meadow called Runingmede, between Windelesore and Stanes, the 15th day of June, in the 17th year of our reign.

COVENANT OF SECURITY.

1215.

THIS is the Covenant made between our lord John, King of England, on the one part; and Robert Fitzwalter, Marshal of the army of God and of holy church in

England *, and Richard earl of Clare, Geoffrey earl of Essex and Gloucester, Roger Bigod earl of Norfolk and Suffolk, Saher earl of Winchester, Robert earl of Oxford, Henry earl of Hereford, and the barons underwritten; that is to say, William Marshall the younger, Eustace de Vesey, William de Mowbray, John Fitz-Robert, Roger de Mont-begon, William de Lanvalay, and other the earls, barons, and freemen of the whole kingdom, on the other part; that is to say, that they the earls and barons and others above written shall hold the custody of the City of London in bail from our lord the king, saving meantime to the lord the king his farms, rents, and debts, until the assumption of the Blessed Mary in the 17th year of the reign of the said king; and the lord archbishop of Canterbury shall hold in like manner in bail from our lord the king the Tower of London to the aforesaid term; saving to the City of London its liberties and free customs, and saving every man's right in the custody of the said tower, and so that the lord our king shall not in the mean time place a guard nor other forces in the said city, nor in the Tower of London.

JOHN.
1199-1216.

And that also within the aforesaid term, the oaths to the twenty-five barons be made throughout all England, as is contained in the charter granted concerning the liberties and security of the kingdom; or to the attornies of the twenty-five barons, as is contained in the letters granted concerning the election of twelve knights for abolishing evil customs of the forests and others.

And moreover, that within the said term all the other demands which the earls, barons, and other freemen do ask of our lord the king, which he himself has declared are to be granted to them, or which by the twenty-five barons, or the major part of them, shall be judged to be granted, shall be granted according to the tenor of the said charter.

And if these things be done, or if our lord the king, on his part, shall not prevent their being done within the term limited, then the City and Tower of London shall, at the term aforesaid, be delivered up to our lord the

* By some inadvertence Fitzwalter's title is incorrectly given in the note *supra*, p. 5.

JOHN.
1199-1216.

king, saving always to the said city its liberties and free customs as aforesaid; and if these things shall not be done, and our lord the king shall prevent their being done within the term aforesaid, the barons shall hold the said city, and the lord archbishop the tower, until such acts be completed. And in the mean time all of both parts shall recover the castles, lands, and towns which they had at the beginning of the war arisen between our lord the king and the barons.

HENRY THE THIRD.

1216-1272.

HENRY was only ten years old when he ascended the throne. William, earl marshal, his guardian, and other nobles who attached themselves to him, proved by their acts what *they* considered the course most likely to dispose the nation to support the interests of the young sovereign. In his first and second years charters confirming the liberties of England were issued, "*de communi consilio omnium fidelium nostrorum.*" And in the ninth year of his reign, when his own will may be considered to have governed his acts, a third charter was issued, being the one which has already formed the subject of our observations, and is here subjoined*.

HENRY III.
1216-1272.

The principal discrepancies between this charter and that of John, which it is plain was still considered as retaining its full force and obligation, have been already noticed. It may be well to add that Matthew Paris, a cotemporary histo-

* The translation henceforth used is that of the statute-book, except in some obvious instances of error. That translation has obtained a sanction, by long usage, which it does not deserve, being often very faulty.

HENRY III.
1216-1272.

rian, was not aware of any omissions, or of any intention to alter the standard of constitutional privileges; for he refers his readers to his preceding quotation of John's charter, expressly assigning as a reason for not transcribing the new document also, that "the charters of the two kings were in no respect different."

The sentence of excommunication against violators of the great charters, which will be subjoined, had been denounced in similar terms in 1224 and 1237. It was renewed on the 13th of May, 1253, in the 37th year of Henry's reign, by parliamentary authority, with great pomp and magnificence in Westminster Hall, before the king himself and his nobles.

Matthew Paris relates that, at the end of the sentence, when the prelates cast down their tapers, extinguished but smoking,—with the execration, "So may all that incur this sentence be extinguished and stink in hell!"—the king immediately subjoined, "So help me God, I will keep all these things, as I am a man; as I am a Christian; as I am a knight; as I am a king crowned and anointed!"

It has been already observed that the great charter received an explicit statutory confirmation in the 52d year of Henry's reign by the statute of Marleberge. The reader will be aware that, whatever had been the previous elements of parliamentary assemblages, the records existing prove that at any rate, in the 49th year of Henry's reign, a parliament was summoned by Simon Montfort earl of Leicester, comprising not only knights of the shires, but citizens and burgesses.

9 HEN. III.—1225.

GREAT CHARTER OF HENRY III.

HENRY, by the grace of God, King of England, Lord of Ireland, Duke of Normandy and Guyenne, and Earl of Anjou : to all archbishops, bishops, abbots, priors, earls, barons, sheriffs, provosts, officers, and to all bailiffs and other our faithful subjects which shall see this present charter, greeting. Know ye that we, unto the honour of Almighty God, and for the salvation of the souls of our progenitors and successors, to the advancement of holy church and amendment of our realm, of our mere and free will, have given and granted to all archbishops, bishops, abbots, priors, earls, barons, and to all freemen of this our realm, these liberties following, to be kept in our kingdom of England for ever.

HENRY III.
1216-1272.

1. We have granted to God, and by this our present charter have confirmed, for us and our heirs for ever : That the church of England shall be free, and shall have all her whole rights and liberties inviolable. We have granted, also, and given to all the freemen of our realm, for us and our heirs for ever, these liberties underwritten, to have and to hold to them and their heirs, of us and our heirs for ever.

The church.

2. If any of our earls or barons, or any other which holdeth of us in chief by knight's service, die, and at the time of his death his heir be of full age and oweth to us relief, he shall have his inheritance by the old relief ; that is to say, the heir or heirs of an earl, for a whole earldom, by one hundred pounds ; the heir or heirs of a baron, for a whole barony, by one hundred marks ; the heir or heirs of a knight, for one whole knight's fee, one hundred shillings at the most ; and he that hath less shall give less, according to the old custom of the fees.

Reliefs.

HENRY III.
1216-1272.

Wardships.

3. But if the heir of any such be within age, his lord shall not have the ward of him, nor of his land, before that he hath taken of him homage. And after that such an heir hath been in ward, when he is come to full age, that is to say, to the age of one-and-twenty years, he shall have his inheritance without relief and without fine; so that if such an heir, being within age, be made knight, yet nevertheless his land shall remain in the keeping of his lord unto the term aforesaid.

Waste of
ward's lands.

4. The keeper of the land of such an heir, being within age, shall not take of the lands of the heir but reasonable issues, reasonable customs, and reasonable services, and that without destruction and waste of his men and his goods. And if we commit the custody of any such land to the sheriff, or to any other which is answerable unto us for the issues of the same land, and he make destruction or waste of those things that he hath in custody, we will take of him amends and recompence therefore, and the land shall be committed to two lawful and discreet men of that fee, which shall answer unto us for the issues of the same land, or unto him whom we will assign. And if we give or sell to any man the custody of any such land, and he therein do make destruction or waste, he shall lose the same custody; and it shall be assigned to two lawful and discreet men of that fee, which also in like manner shall be answerable to us as afore is said.

Maintenance
of ward's
lands.

5. The keeper, so long as he hath the custody of the land of such an heir, shall keep up the houses, parks, warrens, ponds, mills, and other things pertaining to the same land, with the issues of the said land; and he shall deliver to the heir, when he cometh to his full age, all his land stored with ploughs, and all other things, at the least as he received it. All these things shall be observed in the custodies of archbishopricks, bishopricks, abbeyes, priories, churches, and dignities vacant, which appertain to us; except this, that such custody shall not be sold.

Marriage.

6. Heirs shall be married without disparagement.

Widows.

7. A widow, after the death of her husband, immediately, and without any difficulty, shall have her marriage and her inheritance, and shall give nothing for her dower,

her marriage, or her inheritance, which her husband and she held the day of the death of her husband ; and she shall tarry in the chief house of her husband by forty days after the death of her husband, within which days her dower shall be assigned her (if it were not assigned her before) or that the house be a castle ; and if she depart from the castle, then a competent house shall be forthwith provided for her, in the which she may honestly dwell, until her dower be to her assigned, as it is afore said ; and she shall have in the mean time her reasonable estovers of the common ; and for her dower shall be assigned unto her the third part of all the lands of her husband which were his during coverture, except she were endowed of less at the church-door. No widow shall be distrained to marry herself while she chooses to live single : nevertheless, she shall find surety that she shall not marry without our licence and assent if she hold of us, nor without the assent of the lord, if she hold of another.

HENRY III.
1216-1272.

8. We or our bailiffs shall not seize any land or rent for any debt, as long as the present goods and chattels of the debtor do suffice to pay the debt, and the debtor himself be ready to satisfy therefore. Neither shall the pledges of the debtor be distrained, as long as the principal debtor is sufficient for the payment of the debt. And if the principal debtor fail in payment of the debt, having nothing wherewith to pay, or will not pay where he is able, the pledges shall answer for the debt ; and, if they will, they shall have the lands and rents of the debtor until they be satisfied of that which they before payed for him, except that the debtor can show himself to be acquitted against the said sureties.

Crown debts.

9. The city of London shall have all its old liberties and customs. Moreover we will and grant that all other cities, boroughs, towns, and the barons of the five ports, and all other ports, shall have all their liberties and free customs.

Liberties of towns.

10. No man shall be distrained to do more service for a knight's fee, nor any freehold, than therefore is due.

Services.

11. Common Pleas shall not follow our court, but shall be holden in some place certain.

Common Pleas.

12. Assizes of *Novel disseisin* and of *Mort d'ancestor*,

Assizes.

HENRY III. shall not be taken but in the shires, and after this manner : if we be out of this realm, our chief justiciar shall send our justiciars through every county once in the year, which, with the knights of the shires, shall take the said assizes in those counties ; and those things that at the coming of our foresaid justiciar, being sent to take those assizes in the counties, cannot be determined, shall be ended by them in some other place in their circuit ; and those things which, for difficulty of some articles, cannot be determined by them, shall be referred to our justiciars of the bench, and there shall be ended.

Assizes.

13. Assizes of *Darrein presentment* shall be alway taken before our justiciar of the bench, and there shall be determined.

Amerciaments.

14. A freeman shall not be amerced for a small fault but after the manner of the fault ; and for a great fault after the greatness thereof, saving to him his contene-ment ; and a merchant likewise, saving to him his merchandize ; and any other's villain than ours shall be likewise amerced, saving his wainage, if he fall into our mercy ; and none of the said amerciaments shall be assessed but by the oath of honest and lawful men of the vicinage. Earls and barons shall not be amerced but by their peers, and after the manner of their offence. No man of the church shall be amerced after the quantity of his spiritual benefice, but after his lay-tenement, and after the quantity of his offence.

Bridges.

15. No town nor freeman shall be distrained to make bridges nor banks, but such as of old time and of right have been accustomed to make them in the time of King Henry our grandfather.

Banks.

16. No banks shall be defended from henceforth, but such as were in defence in the time of King Henry our grandfather, by the same places and the same bounds as they were wont to be in his time.

Pleas of the crown.

17. No sheriff, constable, escheator, coroner, nor any other our bailiffs, shall hold pleas of our crown.

Debts to the king.

18. If any that holdeth of us a lay fee do die, and our sheriff or bailiff do show our letters patent of our summons for debt which the dead man did owe to us, it shall be lawful to our sheriff or bailiff to attach and inroll all

the goods and chattels of the dead, being found in the said fee, to the value of the same debt, by the sight and testimony of lawful men, so that nothing thereof shall be taken away until we be clearly paid off the debt; and the residue shall remain to the executors to perform the testament of the dead; and if nothing be owing unto us, all the chattels shall go to the use of the dead, saving to his wife and children their reasonable parts.

HENRY III.
1216-1272.

19. No constable, nor his bailiff, shall take corn or other chattels of any man, if the man be not of the town where the castle is, but he shall forthwith pay for the same, unless that the will of the seller was to respite the payment; and if he be of the same town, the price shall be paid unto him within forty days.

Purveyance.

20. No constable shall distrain any knight for to give money for keeping of his castle, if he himself will do it in his proper person, or cause it to be done by another sufficient man, if he may not do it himself for a reasonable cause. And if we do lead or send him in an army he shall be free from castle-ward for the time that he shall be with us in fee in our host, for the which he hath done service in our wars.

Castle-ward.

21. No sheriff nor bailiff of ours, or any other, shall take the horses or carts of any man to make carriage, except he pay the old price limited; that is to say, for carriage with two horses, x. d. a day; for three horses, xiv. d. a day. No demesne cart of any spiritual person or knight, or any lord, shall be taken by our bailiffs; nor we, nor our bailiffs, nor any other, shall take any man's wood for our castles, or other our necessities to be done, but by the licence of him whose the wood is.

Wainage.

22. We will not hold the lands of them that be convict of felony but one year and one day, and then those lands shall be delivered to the lords of the fee.

Felons' lands.

23. All wears from henceforth shall be utterly put down by Thames and Medway, and through all England, but only by the sea-coasts.

Wears.

24. The writ that is called *Præcipe in capite* shall be from henceforth granted to no person of any freehold, whereby any freeman may lose his court.

Præcipe in capite.

25. One measure of wine shall be through our realm,

Measures.

HENRY III. and one measure of ale, and one measure of corn, that
 1216-1272. is to say, the quarter of London; and one breadth of
 dyed cloth, russets, and haberjects, that is to say, two
 yards within the lists; and it shall be of weights as it is
 of measures.

Inquisitions. 26. Nothing from henceforth shall be given for a writ
 of inquisition, nor taken of him that prayeth inquisition
 of life, or of member, but it shall be granted freely, and
 not denied.

**King's te-
nants.** 27. If any do hold of us by fee-farm, or by socage, or
 burgage, and he holdeth lands of another by knight's ser-
 vice, we will not have the custody of his heir, nor of his
 land which is holden of the fee of another, by reason of
 that fee-farm, socage, or burgage; neither will we have
 the custody of such fee-farm, or socage, or burgage, ex-
 cept knight's service be due unto us out of the same fee-
 farm. We will not have the custody of the heir, or of
 any land, by occasion of any petit serjeanty that any
 man holdeth of us, by service to pay a knife, an arrow, or
 the like.

**No putting to
law without
witnesses.** 28. No bailiff from henceforth shall put any man to
 his open law, nor to an oath, upon his own bare saying,
 without faithful witnesses brought in for the same.

Justice. 29. No freeman shall be taken, or imprisoned, or be
 disseised of his freehold, or liberties, or free customs, or
 be outlawed, or exiled, or any otherwise destroyed; nor
 will we not pass upon him, nor condemn him, but by
 lawful judgement of his peers, or by the law of the land.
 We will sell to no man, we will not deny or defer to any
 man, either justice or right.

**Merchant
strangers.** 30. All merchants, if they were not openly prohibited
 before, shall have their safe and sure conduct to depart
 out of England, to come into England, to tarry in and
 go through England, as well by land as by water, to buy
 and sell without any manner of evil tolts, by the old and
 rightful customs, except in time of war. And if they be
 of a land making war against us, and be found in our
 realm at the beginning of the war, they shall be attached
 without harm of body or goods, until it be known unto
 us or our chief justiciar how our merchants be intreated
 there in the land making war against us; and if our mer-

chants be well intreated there, theirs shall be likewise with us. HENRY III.
1216-1272.

31. If any man hold of any escheat, as of the honour of Wallingford, Nottingham, Boloin, or of any other escheats which be in our hands and are baronies, and die, his heir shall give none other relief, nor do none other service to us, than he should to the baron if it were in the baron's hand. And we in the same wise shall hold it as the baron held it; neither shall we have, by occasion of any barony or escheat, any escheat or keeping of any of our men, unless he that held the barony or escheat otherwise held of us in chief. Tenure in escheats.

32. No freeman from henceforth shall give or sell any more of his land, but so that of the residue of the lands the lord of the fee may have the service due to him, which belongeth to the fee. Reservation of the lord's service.

33. All patrons of abbeyes which have the king's charters of England of advowson, or have old tenure or possession in the same, shall have the custody of them when they fall void, as it hath been accustomed, and as it is afore declared. Abbeys.

34. No man shall be taken or imprisoned upon the appeal of a woman, for the death of any other than of her husband. Appeal of death.

35. No county court from henceforth shall be holden, but from month to month; and where greater time hath been used there shall be greater. Nor any sheriff, or his bailiff, shall keep his turn in the hundred but twice in the year; and no where but in due place, and accustomed; that is to say, once after Easter and again after the feast of Saint Michael. And the view of frankpledge shall be likewise at the feast of Saint Michael without occasion; so that every man may have his liberties which he had or used to have in the time of King Henry our grandfather, or which he hath purchased since; but the view of frankpledge shall be so done that our peace may be kept; and that the tything be wholly kept as it hath been accustomed; and that the sheriff seek no occasions, and that he be content with so much as the sheriff was wont to have for his view-making in the time of King Henry our grandfather. County-court, &c.

HENRY III.

1216-1272.

Mortmain.

36. It shall not be lawful from henceforth to any to give his lands to any religious house, and to take the same land again to hold of the same house. Nor shall it be lawful to any house of religion to take the lands of any, and to lease the same to him of whom it received it. If any from henceforth give his lands to any religious house and thereupon be convict, the gift shall be utterly void, and the land shall accrue to the lord of the fee.

Escuage.

37. Escuage from henceforth shall be taken like as it was wont to be in the time of King Henry our grandfather; reserving to all archbishops, bishops, abbots, priors, templars, hospitallers, earls, barons, and all persons, as well spiritual as temporal, all their free liberties and free customs which they have had in time passed.

Same liberties to subtenants.

And all these customs and liberties aforesaid, which we have granted to be holden within this our realm, as much as appertaineth to us, with respect to our men, all men of this our realm as well spiritual as temporal, as much as appertaineth to them, shall observe with respect to their men.

Subsidy.

And for this our gift and grant of these liberties, and of others contained in our charter of liberties of the forest, the archbishops, bishops, abbots, priors, earls, barons, knights, freeholders, and other our subjects, have given unto us the fifteenth part of all their moveables.

And we have granted to them for us and our heirs, that neither we nor our heirs shall procure or do anything whereby the liberties in this charter contained shall be infringed or weakened; and if anything be procured by any person contrary to the premises it shall be had of no force nor effect. These being witnesses; the lord Stephen archbishop of Canterbury; Roger of London, Joceline of Bath, Peter of Winchester, Hugh of Lincoln, Richard of Salisbury, Benedict of Rochester, William of Worcester, John of Ely, Hugh of Hereford, Ralph of Chichester, William of Exeter, bishops; the abbot of St. Edmund's, the abbot of St. Alban's, the abbot of Battel, the abbot of St. Augustine's Canterbury, the abbot of Evesham, the abbot of Westminster, the abbot of Peterborough, the abbot of Reading, the abbot of Abingdon, the abbot of Malmsbury, the abbot of Winchcomb, the abbot of Hyde, the abbot of

Chertsey, the abbot of Sherburne, the abbot of Cerne, the abbot of Abbotsbury, the abbot of Middleton, the abbot of Selby, the abbot of Whitby, the abbot of Cirencester; Hubert de Burgh, the king's justiciar, Randolph earl of Chester and Lincoln, William earl of Salisbury, William earl of Warren, Gilbert de Clare earl of Gloucester and Hertford, William de Ferrers earl of Derby, William de Mandeville earl of Essex, Hugh le Bigod earl of Norfolk, William earl of Albemarle, Humphry earl of Hereford, John constable of Chester, Robert de Ros, Robert Fitz-Walter, Robert de Vipont, William de Brewer, Richard de Montfichet, Peter Fitz-Herbert, Matthew Fitz-Herbert, William de Albin, Robert Gresley, Reginald de Bruce, John de Monmouth, John Fitz-Alan, Hugh de Mortimer, Walter de Beauchamp, William de Saint John, Peter de Maulay, Brian de Lisle, Thomas de Muleton, Richard de Argentine, Godfrey de Neville, William Mauduit, John de Balun.

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Given at Westminster the 11th day of February in the 9th year of our reign.

ECCLESIASTICAL SENTENCE.

1254.

IN the year of grace 1254, the third of the ides of May, in the greater hall of Westminster, in the presence and by the assent of the Lord Henry, by the grace of God, King of England, and the lord Richard earl of Cornwall his brother, Roger Bigot earl of Norfolk and Suffolk marshal of England, Humphry earl of Hereford, R. earl of Exeter, John earl of Warren, and other optimates of the realm of England; We Boniface by the mercy of God archbishop of Canterbury, primate of all England; F. of London, H. of Ely, S. of Lincoln, W. of Worcester, R. of Norwich, P. of Hereford, W. of Salisbury, W. of Durham, F. of Exeter, S. of Carlisle, W. of Bath, L. of Rochester, bishops; apparelled in pontificals, with tapers burning, against the breakers of the church's liberties and of the free customs of the realm of England, and especially of

HENRY III. 1216-1272. those which are contained in the charter of the common liberties of England and charter of the forest, have denounced sentence of excommunication in this form.

By the authority of Almighty God, the Father, the Son, and the Holy Ghost, and of the glorious mother of God and perpetual Virgin Mary; of the blessed apostles Peter and Paul, and of all the apostles; of the blessed martyr Thomas the archbishop, and of all martyrs; of the blessed Edward King of England, and of all confessors and virgins and of all the saints of God; we excommunicate, accurse, and from the fellowship of holy mother church dissever all those that hereafter willingly and maliciously deprive or spoil the church of her right; and all those that by any craft or wiliness do violate, break, diminish, or change the ancient liberties and free customs of the church or the realm, approved and contained in the charter of the common liberties of the realm, and of the forest, granted by our lord the king to the archbishops, bishops, and other prelates of England, earls, barons, knights, and freeholders, or that secretly or openly, by deed, word, or council, do contravene them or any of them in any article whatsoever; and all those that make statutes, or observe them being made, or that bring in customs, or keep them when they be brought in, against the said liberties or any of them, and the writers thereof and the counsellors and executioners of them, and all those that shall presume to judge according to them. All and every which persons before mentioned that wittingly shall commit any of the premises, let them well know that they incur the aforesaid sentence *ipso facto*. And those that commit ought ignorantly, except they reform themselves within fifteen days after the time of the admonition, and make full satisfaction for that they have done at the will of the ordinary, shall be from that time forth involved in the said sentence. And with the same sentence we burden all those that presume to disturb the peace of the king, and of the realm. In perpetual memory whereof, we the aforesaid have set our seals to these presents.

EDWARD THE FIRST.

1272-1307.

WE shall for the present postpone noticing any of the other important practical provisions made during this reign, for the purpose of concluding what properly belongs to the direct confirmation of the Great Charters. Powerful as this monarch was, his subjects, by steadily persevering in the constitutional course of their ancestors, not only obtained continued recognitions of the provisions expressly acknowledged to have been formerly made "by the common consent of the whole kingdom," but adopted practical measures for enforcing the due promulgation and execution of the law. The constitution gradually unfolded itself, and showed its power of adaptation to the great practical purpose of preserving free institutions. The Committee of the Lords, in their third Report, observe that "the rise of the House of Commons, without any express law for the purpose may have been the *natural result* of the situation in which the country was placed at the close of the reign of Henry the Third, or the accession of his son; the gradual though slow increase of *power* in the House was the natural result of its establishment;" the love of free institutions, and the

EDWARD I.
1272-1307.

EDWARD I. necessity of providing for their support, were,
 1272-1307. throughout, the moving principles, and were fortunately as well as prudently acted upon.

For the complete establishment of the Great Charter England is indebted to the patriotic labours of Humphry Bohun earl of Hereford and Essex, and Roger Bigod earl of Norfolk. We trace them steadily, firmly, but temperately, contending with a crafty and successful monarch. When, although baffled in his attempts to resist their just demands, he formed a pretext for future prevarication, by inserting a captious "*salvo jure coronæ nostræ*," we find them refusing to admit of any reservations, and indignantly retiring from the court of the dissembler; and in the end we see them in a succeeding parliament, receiving an unqualified assent, which the loud expression of his subjects' opinion had convinced the monarch he could no longer with safety refuse.

We shall now subjoin the charter of confirmation of liberties granted in the 25th year of Edward's reign, with the ecclesiastical sentence sanctioning and enforcing it. The statute usually called *Articuli super Chartas* three years afterwards confirmed and still more particularly provided for the promulgation and establishment of the liberties before admitted. To these will be added the important statute passed in the king's 34th year, commonly called the statute *De tallagio non concedendo*, which repressed the endeavours made to supply the king's needs for his foreign wars, by levies made upon his English subjects in violation of the law as repeatedly acknowledged by himself.

25 EDW. I.—1297.

CHARTER OF CONFIRMATION.

EDWARD, by the grace of God, King of England, Lord EDWARD I.
of Ireland, and Duke of Guienne: to all those that these 1272-1307.
present letters shall hear or see, greeting. Know ye Charterscon-
that we to the honour of God and of holy church, and firmed.
to the profit of our realm, have granted for us and our
heirs, that the Great Charter of Liberties and the Charter
of the Forest, which were made by common assent of all
the realm in the time of King Henry our father, shall be
kept in every point without breach. And we will that the
same charters shall be sent under our seal to our justices as
well of the forest as to others, and to all sheriffs of shires,
and to all our other officers, and to all our cities through-
out the realm, together with our writs, in the which it shall
be contained that they cause the aforesaid charters to be
published, and to declare to the people that we have
granted to hold them in all points; and that our justices,
sheriffs, mayors, and other ministers, which under us
have the laws of our land to guide, shall allow the said
charters pleaded before them in judgement in all their
points, that is to wit, the Great Charter of Liberties as Great Char-
the common law, and the Charter of the Forest according ter to be the
to the assise of the forest, for the wealth of our realm. common law.

2. And we will, that if any judgement be given from Contrary
henceforth contrary to the points of the charters afore- judgements
said, by the justices, or by any other our ministers that to be void.
hold pleas before them, against the points of the charters,
it shall be undone and holden for nought.

3 And we will, that the same charters shall be sent To be read in
under our seal to the cathedral churches throughout our churches.
realm, there to remain, and shall be read before the peo-
ple twice a year.

4. And that the archbishops and bishops shall pronounce Excommu-
sentences of excommunicatin against all those that by nication.

EDWARD I. word, deed, or council do contrary to the aforesaid charters, or that in any point break or undo them. And that the said sentences be twice a year denounced and published by the prelates aforesaid. And if the same prelates, bishops, or any of them, be remiss in the denunciation of the said sentences, the archbishops of Canterbury and York for the time being shall compel and distrain them to the execution of their duties in form aforesaid.

Aids taken to be no precedent.

5. And for so much as divers people of our realm are in fear that the aids and tasks which they have given to us beforetime towards our wars and other business of their own grant and good will (howsoever they were made) might turn to a bondage to them and their heirs, because they might be at another time found in the rolls; and likewise the prises taken throughout the realm by our ministers in our name: We have granted for us and our heirs, that we will not draw such aids, tasks, nor prises into a custom for anything that hath been done heretofore, be it by roll or any other precedent that may be founden.

Aids not to be taken without consent.

6. Moreover we have granted for us and our heirs, as well to archbishops, bishops, abbots, priors, and other folk of holy church, as also to earls, barons, and to all the commonalty of the land, that for no business from henceforth we shall take such manner of aids, tasks, nor prises, but by the common assent of the realm, and for the common profit thereof, saving the ancient aids and prises due and accustomed.

Release of toll taken.

7. And for so much as the more part of the commonalty of the realm find themselves sore grieved with the male-toute of wools, that is to wit, a toll of forty shillings for every sack of wool, and have made petition to us to release them of the same; we at their requests have clearly released it, and have granted that we shall not take that or any other without their common assent and good will, saving to us and our heirs the custom of wools, skins, and leather, granted before by the commonalty aforesaid. In witness of which things we have caused these our letters to be made patent. Witness Edward our son at London, the tenth day of October, the five-and-twentieth year of our reign.

And be it remembered that this same charter, in the same terms, word for word, was sealed in Flanders under the king's great seal ; that is to say, at Ghent, the 5th day of November, in the 25th year of the reign of our aforesaid lord the King, and sent into England. EDWARD I.
1272-1307.

ECCLESIASTICAL SENTENCE ON THE CONFIRMATION OF THE CHARTERS.

1297.

In the name of the Father, of the Son, and of the Holy Ghost, Amen. Whereas our sovereign lord the King, to the honour of God and of holy church, and for the common profit of the realm, hath granted for him and his heirs for ever these articles underwritten. We Robert archbishop of Canterbury, primate of all England, admonish all those of the realm of England once, twice, and thrice—because that shortness of time will not suffer more delay,—that all and every of them of what estate soever they be, as much as in them is, do uphold and maintain these things granted by our sovereign lord the king in all points ; and that they or none of them do resist or break, or in any manner hereafter procure, counsel, or any ways assent to resist or break them, or go about it, by word or deed, openly or privily, by any manner of pretence or colour ; and we the foresaid archbishop, by our authority in this writing expressed, do excommunicate all such, and them from the body of our Lord Jesus Christ, and from all the company of heaven, and from all the sacraments of holy church, do dissever. *Fiat ! Fiat ! Amen !*

34 EDW. I.—1306.

STATUTUM DE TALLAGIO NON CONCEDENDO*.

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- EDWARD I. 1. No tallage or aid shall be taken or levied by us or
 1272-1307. our heirs in our realm, without the good will and assent
 Tallage. of the archbishops, bishops, earls, barons, knights, bur-
 gesses and other freemen of the land.
- Prises. 2. No officer of ours, or of our heirs, shall take corn,
 leather, cattle, or any other goods of any manner of per-
 son, without the good will and assent of the party to whom
 the goods belonged.
- Maletolte. 3. Nothing from henceforth shall be taken of sacks of
 wool by colour or occasion of maletolte.
- Liberties. 4. We will and grant for us and our heirs, that all clerks
 and laymen of our land shall have their laws, liberties,
 and free customs, as largely and wholly as they have used
 to have the same at any time when they had them best ;
 and if any statutes have been made by us or our ancestors,
 or any customs brought in contrary to them or any man-
 ner of article contained in this present charter, we will
 and grant that such manner of statutes and customs shall
 be void and frustrate for evermore.
- Ecclesiasti- 6. And for the more assurance hereof we will and
 cal censures. grant, that all archbishops and bishops for ever shall
 read this present charter in their cathedral churches twice
 in the year ; and upon the reading thereof in every of their
 parish churches, shall openly denounce accursed all those
 that willingly do or procure to be done anything contrary
 to the tenor, force, and effect of this present charter
 in any point and article. In witness whereof we have
 set our seal to this present charter, together with the seals
 of the archbishops, bishops, earls, barons, and others,
 which voluntarily have sworn that as much as in them

* See Blackstone's Law Tracts, vol. ii. xcvi. as to doubts
 with regard to the date and history of this statute.

is, they shall observe the tenor of this present charter in all causes and articles, and shall extend their counsel and faithful aid to the keeping thereof, for ever. EDWARD I.
1272-1307.

STATUTES AS TO ELECTIONS AND OTHER CONSTITUTIONAL PROVISIONS UNDER EDWARD I.

During Edward's reign, in which at any rate it is plain that the constitution and functions of parliament had become substantially and practically developed, various constitutional provisions were made besides the recognition of the rights involved in the Great Charters. His first parliament passed the Statute of Westminster, in 1275. Some of the most important chapters of that statute are subjoined; they all bespeak solicitude for the support and exercise of free constitutional rights,—a solicitude which we may at least as fairly attribute to a watchful and jealous popular spirit as to any disinterested concern on the part of the sovereign for the privileges and interests of his subjects. In this reign also a very precise record has been handed down to us of the king's formal and practical recognition of the principle, as one anciently and wisely established both by custom and reason, that *all* which concerns *all* should be settled by their common assent. By an extant writ, dated 30th September, 23 Edw. I. the archbishop of Canterbury is summoned to meet the parliament convened to

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be shortly held at Westminster, "in order to discuss, ordain, and do with us and with the other prelates and peers, and the other inhabitants (*aliis incolis*) of our kingdom," how the perils then apprehended from France should be met. The writ thus commences :—"Whereas the most just law, established by the provident circumspection of holy princes, our ancestors, exhorts and ordains (*statuit*) that what concerns all should be approved by all, so it manifestly intends that for common dangers, remedies should be provided in common." There was not much necessity, however, for constitutional justification of assembling parliament for such purposes. Our early history is full of precedent on the subject. In the *Saxon Chronicle*, A. D. 1010, we find "and all the *witan* were summoned to the king, that counsel should be taken how this land should be defended*."

With regard to the provision in the Statute of Westminster as to the freedom of *elections* in general, it should be observed that sheriffs, coroners, and many other officers, were then, in the old spirit of practical liberty, elected by the people. Freedom in the exercise of such privileges was obviously of the first importance, and it was to

* The truth seems to be that his majesty talked thus constitutionally with the more zeal, on account of being placed in an awkward situation, in which his subjects' assistance would be very acceptable. So, Pasquier says, the *menu peuple* were permitted to have a share in the French legislature "that they might be taxed the more severely, under pretence of its being with their own consent." Barrington, *Anc. Stat.* 134.

these elections probably more particularly, rather than to any parliamentary or legislative representation, that the letter of the provision was intended to apply.

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Some other very important statutes of this reign are subjoined. The first is one of peculiar importance in providing for freedom of discussion and action in parliament, unawed by armed interferences. The second is the statute which to this day protects parties against judges deluding juries into erroneous verdicts by incorrect expositions of the law. The third prevents improper influence in the selection of juries, by restraining the crown's power arbitrarily to reject by challenge persons not likely to be subservient to its views.

3 EDW. I.—1275.

STATUTE OF WESTMINSTER THE FIRST.

THESE be the acts of King Edward, son of King Henry, made at Westminster at his first general parliament after his coronation, on the Monday of Easter Utas, the third year of his reign, by his council, and by the assent of archbishops, bishops, abbots, priors, earls, barons, and all the commonalty of the realm thither summoned: because our lord the king had great zeal and desire to redress the state of the realm in such things as required amendment for the common profit of holy church and of the realm: and because the state of his kingdom and of the holy church had been evil kept, and the prelates and religious persons of the land grieved many ways, and the

EDWARD I. ^{1272-1307.} people otherwise intreated than they ought to be, and the peace less kept, and the laws less used, and the offenders less punished than they ought to be, by reason whereof the people of the land feared the less to offend; the king hath ordained and established these acts under written, which he intendeth to be necessary and profitable unto the whole realm.

CHAP. V.

There shall be no disturbance of free Elections.

Because elections ought to be free, the king commandeth upon great forfeiture, that no man by force of arms, nor by malice or menacing, shall disturb any to make free election.

CHAP. VI.

Amerciaments shall be reasonable.

That no city, borough, nor town, nor any man, be amerced without reasonable cause, and according to the quantity of his trespass; that is to say, every freeman saving his freehold, a merchant saving his merchandize, a villain saving his wainage, and that by his or their peers.

CHAP. IX.

All men shall be ready to pursue Felons, notwithstanding Franchises.

Forasmuch as the peace of this realm hath been evil observed heretofore for lack of quick and fresh suit making after felons in due manner, and namely because of franchises, where felons are received; it is provided, that all generally be ready and apparelled at the commandment and summons of sheriffs, and at the cry of the country, to sue and arrest felons when any need is, as well within franchise as without; and they that will not so do and thereof be attainted, shall make a grievous fine to the king; and if default be found in the lord of the franchise, the king shall take the same franchise to himself; and if default be in the bailiff, he shall have one year's

imprisonment, and after shall make a grievous fine ; and if he have not whereof, he shall have imprisonment of two years. And if the sheriff, coroner, or any other bailiff within such franchise or without, for reward or for prayer, or for fear, or for any manner of affinity, conceal, consent, or procure to conceal, the felonies done in their liberties, or otherwise will not attach nor arrest such felons there, as they may, or otherwise will not do their office for favour borne to such misdoers and be attainted thereof, they shall have one year's imprisonment, and after make a grievous fine at the king's pleasure, if they have wherewith ; and if they have not whereof, they shall have imprisonment of three years.

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CHAP. XI.

Against partial Inquests.

Forasmuch as many being indicted of murther and culpable of the same, by favourable inquests taken by the sheriff, and by the king's writ of *odio et atia*, be replevied unto the coming of the justices in eyre ; it is provided, that from henceforth such inquests shall be taken by lawful men chosen out by oath (of whom two at the least shall be knights) which by no affinity with the prisoners, nor otherwise, are to be suspected.

CHAP. XXVI.

No King's Officers shall commit extortion.

No sheriff, nor other the king's officer, shall take any reward to do his office, but shall be paid of that which they take of the king ; and he that so doth shall yield twice as much, and shall be punished at the king's pleasure.

CHAP. XXIX.

Penalty of a Serjeant or Pleader committing deceit.

It is provided that if any serjeant, pleader, or other, do any manner of deceit or collusion in the king's court, or

EDWARD I. consent unto it in deceit of the court, or to beguile the
 1272-1307. court, or the party, and thereof be attainted, he shall be
 imprisoned for a year and a day, and from thenceforth
 shall not be heard to plead in that court for any man;
 and if he be no pleader, he shall be imprisoned in like
 manner by the space of a year and a day at least; and if
 the trespass require greater punishment, it shall be at
 the king's pleasure*.

CHAP. XXXIV.

Slanderous News, whereby discord may arise, not
 to be reported.

Forasmuch as there have been oftentimes found in the
 country devisors of tales, whereby discord, or occasion of
 discord, hath many times arisen between the king and
 his people, or great men of this realm; for the damage
 that hath and may thereof ensue, it is commanded that
 from henceforth none be so hardy to tell or publish
 any false news or tales, whereby discord or occasion of
 discord or slander may grow between the king and his
 people, or the great men of the realm; and he that doth
 so shall be taken and kept in prison, *until he hath brought
 him into the court which was the first author of the tale.*

* *Dominus Robertus de Willoughby, anno 24 Edw. III. jurisperitos ad septum curiæ allocuturus, dixit, "Jeo ay view le temps que, si vous ussez plead un erronious plea, que vous alastes al prison."* (Barrington's Anc. Stats. 2d. edit. 52.) The worthy judge's monition to the bar may serve as a specimen of the ingenious French used among the lawyers in those days.

7 EDW. I.—1279.

FREEDOM OF PARLIAMENT.

To all Parliaments and Treatises men shall come
without Force and Arms.

EDWARD by the grace of God, King of England, Lord of Ireland, and Duke of Aquitaine; to the justices of his bench sendeth greeting. Whereas of late before certain persons deputed to treat upon sundry debates had between us and certain great men of our realm, amongst other things it was accorded, that in our next parliament after, provision should be made by us and the common assent of the prelates, earls, and barons, that in all parliaments treatises, and other assemblies which should be made in the realm of England for ever, every man shall come without all force and armour, well and peaceably, to the honour of us and the peace of us and our realm. And now in our next parliament at Westminster after the said treatise, the prelates, earls, barons, and the commonalty of our realm, there assembled to take advice of this business, have said that to us it belongeth and our part is, through our royal seigniory, straitly to defend force of armour and all other force against our peace, at all times when it shall please us, and to punish them which shall do contrary, according to our laws and usages of our realm; and hereunto they are bound to aid us as their sovereign lord at all seasons when need shall be. We command you, that ye cause these things to be read afore you in the said bench, and there to be enrolled.

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1272-1307.

13 EDW. I.—1285.

STATUTE OF WESTMINSTER THE SECOND.

EDWARD I.
1272-1307.

WHEREAS of late our lord the King in the quinzim of Saint John Baptist, the sixth year of his reign, calling together the prelates, earls, barons, and his council at Gloucester, and considering that divers of this realm were disherited, by reason that in many cases where remedy should have been had, there was none provided by him nor his predecessors, ordained certain statutes right necessary and profitable for his realm, whereby the people of England and Ireland being subjects unto his power, have obtained more speedy justice in their oppressions than they had before; and certain cases wherein the law failed did remain undetermined, and some remained to be enacted that were for the reformation of the oppressions of the people: our lord the king in his parliament, after the feast of Easter, holden the 13th year of his reign at Westminster, caused many oppressions of the people and defaults of the laws for the accomplishment of the said statutes of Gloucester, to be rehearsed, and thereupon did provide certain acts, as shall appear here following.

CHAP. XXXI.

Bills of Exception shall be sealed by the justices.

When one that is impleaded before any of the justices doth alledge an exception, and pray that the justices will allow it, which if they will not allow, then if he that alledged the exception do write the same exception, and require that the justices will put their seals for witness thereto, the justices shall so do; and if one justice will not, another of the company shall. And if the king, upon complaint made against the justices, cause the record to come before him, and the same exception be not found in the roll, and the plaintiff show the exception written with

the seal of a justice put to, the justice shall be commanded that he appear at a certain day, either to confess or deny his seal. And if the justice cannot deny his seal judgement shall be proceeded to according to the same exception, as to whether it ought to be allowed or disallowed.

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33 EDW. I.—1305.

AN ORDINANCE FOR INQUESTS.

Cause shall be shown for Crown Challenges of
a Jury or Jurors.

OF inquests to be taken before any of the justices and wherein our lord the King is party, howsoever it be; it is agreed and ordained by the king and all the council, that from henceforth, notwithstanding it be alledged by them that sue for the king, that the jurors of those inquests, or some of them, be not indifferent for the king, yet such inquests shall not remain untaken for that cause; but if they that sue for the king will challenge any of those jurors, they shall assign of their challenge a cause certain; and the truth of the same challenge shall be enquired of according to the custom of the court; and let proceedings be had in the taking of the same inquisitions according as it shall be found if the challenges be true or not, after the discretion of the justices.

EDWARD THE SECOND.

1307-1327.

By the oath administered to this king on his coronation he engaged “to observe and confirm to the people the laws and customs granted by his predecessors, kings of England, and that he would grant to hold and keep the laws and customs which the commonalty of the kingdom should have chosen,” or rather should choose*. During his reign accidental circumstances led to special discussions on a point, with regard to which great irregularities certainly existed in early legislative practice. Laws appeared to have passed, or found their way to the statute-roll, of which one branch or other of the state complained, as made without and sometimes expressly against its consent. Distinctions were drawn too, not very easy to be now in all respects satisfactorily settled, between statutes and ordinances. In the 15th of Edward II. certain ordinances, which had been forced upon the king by the barons, and which contained provisions

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* Edward himself, in the citation of the oath in the statute 15th Edw. II. read it obviously with relation to an observance of *future* laws.

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not likely to be admitted by him when in a condition to assert his independence, were, on his resuming the ascendancy, formally declared void by parliament. On that occasion an explicit declaration was made by statute of what was understood to be, and in former times to have been, the law and usage of the realm in this respect. The declaration is of the higher constitutional value as an authority, because it obviously moved from the king himself, in an appeal by him to what he on his part, from experience, found to be the safe and legitimate rule of government. More than one writer has of late treated this statute as the settling of a new constitution; considering it as now "for the first time enacted, that the legislative authority *should be* in the king, with the advice and consent of the lords spiritual and temporal, and commons, in parliament assembled." Certainly, if this be so, the parties do not seem to have been at the time aware of the fact. They agreed in declaring the ancient law; and they at least considered and treated themselves as a legislative assembly, consisting of the proper elements of such a parliament as their enactment describes, and decreeing, as they felt they had the power to decree, that in future the same regularity should be constantly observed, and that all practices should be discountenanced and restrained which had at any time broken in upon the wholesome usages of the realm.

This important act is not to be found in the ordinary editions of the Statutes. It is taken here from the lately published *Statutes of the Realm*.

15 EDW. II.—1322.

REVOCATION OF ORDINANCES.

WHEREAS our lord King Edward, son of King Edward, on the 16th day of March, in the third year of his reign, to the honour of God, and for the weal of himself and his realm, did grant unto the prelates, earls, and barons of his realm, that they might choose certain persons of the prelates, earls, and barons, and of other lawful men, whom they should deem sufficient to be called unto them, for the ordering and establishing the estate of the household of our said lord the king, and of his realm, according to right and reason; and in such manner that their ordinances should be made to the honour of God, and to the honour and profit of holy church, and to the honour of the said king, and to his profit, and to the profit of his people, according to right and reason, and to the oath which our said lord the king made at his coronation. And the archbishop of Canterbury, primate of all England, the bishops, earls, and barons thereunto chosen, did make certain ordinances which begin thus, &c. [Referring to the Ordinances, 5th Edw. II. See *Statutes of the Realm*, vol. i. p. 157-168.]

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1307-1327.

The which ordinances our said lord the king, at his parliament at York in three weeks from Easter, in the 15th year of his reign, did by the prelates, earls, and barons (among whom were the more part of the said ordainers who were then living), and by the commonalty of his realm then by his command assembled, cause to be rehearsed and examined.

And forasmuch as, upon that examination, it was found in the said parliament that, by the matters so ordained, the royal power of our said lord the king was restrained in divers things, contrary to what ought to be, to the blemishing of his royal sovereignty and against the estate of the crown:

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And also, forasmuch as in time past, by such ordinances and provisions made by subjects against the royal power of the ancestors of our said lord the king, troubles and wars have happened in the realm, whereby the land hath been in peril :

It is accorded and established at the said parliament, by our lord the king, and by the said prelates, earls, and barons, and the whole commonalty of the realm, at this parliament assembled, that all the things by the said ordainers ordained, and contained in the said ordinances, shall from henceforth from the time to come cease, and shall lose their name, force, virtue, and effect for ever ; the statutes and establishments duly made by our lord the king and his ancestors, before the said ordinances, abiding in their force.

And that for ever hereafter, all manner of ordinances or provisions made by the subjects of our lord the king or of his heirs, by any power or authority whatsoever, concerning the royal power of our lord the king, or of his heirs, or against the estate of our said lord the king, or of his heirs, or against the estate of the crown, shall be void and of no avail or force whatever.

But the matters which are to be established for the estate of our lord the king, and of his heirs, and for the estate of the realm, and of the people, shall be treated, accorded, and established IN PARLIAMENTS, BY OUR LORD THE KING, AND BY THE ASSENT OF THE PRELATES, EARLS, AND BARONS, AND THE COMMONALTY OF THE REALM, ACCORDING AS IT HATH BEEN HERETOFORE ACCUSTOMED.

EDWARD THE THIRD.

1327-1377.

“THERE is not a reign,” Mr. Hume observes, “among those of the ancient English monarchs, which deserves more to be studied than that of Edward the Third; nor one where the domestic transactions will better discover the true genius of that kind of mixed government which was then established in England.”

EDW. III.
1327-1377.

During the king's minority the opportunity was embraced of establishing popular control on a more solid and practical basis, by rendering it imperative upon him to meet his parliament at least once a year. Parliament seems almost invariably, during the Plantagenet reigns, to have been freshly summoned each year, and did not continue, as afterwards, through several sessions. The same provision for annual meetings was confirmed in a more advanced period of this king's reign. His parliaments were very vigilant in their protection of the rights of the subject; for above twenty confirmations of the great charter were enacted by them. If the repeated complaints of infringement show some infirmity in the character of the popular safeguards against arbitrary power, they equally bear testimony to the im-

EDW. III.
1327-1377.

patience of the nation under aggression, and its eagerness to give practical operation to what no one dared to deny was the true constitutional principle.

In this reign at least, three essential principles of government were established on a firm footing: the illegality of raising money without consent of parliament; the necessity that the two houses should concur in any alteration of the law; and the right of the commons to enquire into abuses, and impeach public counsellors. If the subject had not now lost much of its interest, we might also notice the united parliamentary efforts of crown and people to preserve both from any pretensions to interference on the part of the see of Rome. A similar jealousy led parliament by anticipation to obtain from the king (14 Edw. III. st. 5) a precautionary declaration against any increase of regal prerogative, or the spread of foreign maxims of government, in the event of the king's success in his attempts upon the throne of France, he then assuming the style of king of that country.

In connection with this topic we may also notice ample precedents, established during this reign, for parliamentary interference in questions of peace and war. In the 28th Edward III. "it was shewed to the lords and commons by Bartholomew de Burghersh, the king's chamberlain, how a treaty had been set on foot between the king and his adversary of France, and how he had good hope of a final and agreeable issue, with God's help; to which he would not come without assent of the lords and commons. Wherefore the said

chamberlain enquired on the king's part of the said lords and commons whether they would assent and agree to the peace, in case it might be had by treaty between the parties. To which the said commons, with one voice, replied, that whatever end it should please the king and lords to make of the treaty would be agreeable to them. On which answer the chamberlain said to the commons, "Then you will assent to a perpetual treaty of peace, if it can be had?" And the commons answered at once and unanimously, "Yes, yes*."

EDW. III.
1327-1377.

The following extracts from the statute-book of this reign will comprise,

1. The enactments enforcing the yearly holding of parliament. In illustration of this provision from parliamentary proceedings in Ireland (whence many interesting constitutional elucidations of our history may be drawn), it is worthy of remark, that the same thing had been formally required from the king by the Irish in 1316, and was secured by his writ or charter. A petition was sent to the king and his council in England, stating many disorders in Ireland, and (among other complaints which five hundred years have not removed) asserting that juries dared not convict for fear of private vengeance. The king in consequence issued his writ to the justiciar, chancellor, and treasurer of Ireland, directing among other things that a parliament should be held every year; and that the archbishops, bishops, abbots, priors, earls, barons, and the commons

* Hallam, *Middle Ages*, cap. viii. part 3.

EDW. III.
1327-1377.

of the land, should be immediately summoned for their further advice and counsel; with this singular precept, that if from lawful cause they could not meet, a writ should be sent to each of the most discreet of the prelates and magnates, who were in reply to give their opinions "*nomi-
natim et separatim.*"

2. The provisions of 1st and 25th Edward the Third against compulsory military service, and finding of "men of arms." It would be entering too deeply into the political contests of this reign to notice the various struggles against the abuses of purveyance, and other contrivances for extracting contributions from the subject; but these brief and peremptory enactments (which are recited and confirmed by an act of 4th Henry IV.) amply deserve record, as important constitutional provisions.

3. The legal and judicial reforms made during this reign will comprise the "Treason Act," by which Edward's reign is perhaps most distinguished in modern times; and very deservedly so, as it was a law which in a great degree abolished those vague and uncertain definitions of this crime which had hitherto been liable to be turned to purposes of oppression.

We shall subjoin several provisions equally salutary; for protecting the subject from visitation for offences otherwise than by due course of trial; for the improvement and protection of trial by jury; and for the establishment of purity and independence in the courts where the justices of assize administered the law. One of these regards the rights of foreigners. In preceding reigns,

commencing with the Great Charter itself, anxious provision had been made for the encouragement and protection of the commercial interests of the country by securing the free access and residence of foreign merchants for the purposes of trade. The characteristic solicitude of the English parliament for free institutions was now displayed in a provision for extending even to aliens the enjoyment in an acceptable form of one of the most valued constitutional privileges. The statute made for ensuring impartiality in the administration of justice to foreigners, by providing them with a jury equally divided between the two tongues, is too interesting and honourable a proceeding to be omitted in the series of our chartered rights.

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1327-1377.

The principle is one of remote constitutional antiquity. The twelve *lahmen* selected to administer justice between the British and Saxon inhabitants of Damnonia (Devonshire) consisted of six Britons and six Saxons or Englishmen. Something like it occurs in the suit in 1159 between the men of Wallingford and the convent of Abingdon; where, after a verdict for the convent, given, it was alleged, erroneously, by jurors named from the county generally, a second inquest was taken; in which half the jury was from the county, excluding the convent tenants, and the other half from Wallingford. So also an inquest similarly impanelled seems to have been in use in border cases between the English and Scotch. In the Icelandic *thing* each party in certain cases *nominated* six of the twelve *doomsmen*, whose decision was to be final.

EDW. III.
1327-1377.

Mr. Hallam justly observes that the whole of the 5th statute of 25 Edw. III. is probably the most extensively beneficial act in the body of our laws. It established certainty in treason ;—regulated purveyance ;—prohibited arbitrary imprisonment and the determination of pleas of freehold before the council ;—took away the compulsory finding of men at arms and other troops ;—confirmed the “reasonable aid” of the king’s tenants, fixed by 3 Edw. I. ;—and provided that the king’s protection should not hinder civil process or execution.

Finally will be added the statute by which, as Voltaire has observed, “*ceux qui avoient le malheur de plaider puissent lire leur ruine dans leur propre langue.*”

4 EDW. III.—1330.

YEARLY PARLIAMENTS.

At the parliament summoned at Westminster the Monday next after the feast of Saint Katharine, in the fourth year of the reign of King Edward the Third after the conquest, these things underwritten, at the request of the commons, be established and enacted by our lord the king, his prelates, earls, and barons, and other of the same parliament; which things our lord the king will to be published, and surely observed in all his counties of England.

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1327-1377.

CHAP. XIV.

Parliament shall be holden once a year.

Item, it is accorded that [a] parliament shall be holden every year once, and more often if need be.

36 EDW. III.—1362.

To the honour and pleasure of God, and amendment of the outrageous grievances and oppressions done to the people, and in relief of their estate, King Edward at his parliament holden at Westminster in the fifteenth of Saint Michael, the six-and-thirtieth year of his reign, at the request of his commons by their petition delivered to him in the said parliament, by assent of the prelates, dukes, earls, barons, and other great men in the said parliament assembled, hath granted for him and his heirs for ever the articles under written.

EDW. III.
1327-1377.

CHAP. X.

Parliament shall be holden once in a year.

Item, for maintenance of the said articles and statutes, and redress of divers mischiefs and grievances which daily happen, [a] parliament shall be holden every year, as another time was ordained by statute.

1 EDW. III.—1327.

STAT. 2. CHAP. V.

None shall be compelled to go to war out of the shire where he dwelleth.

Item, the king will that no man from henceforth shall be charged to arm himself, otherwise than he was wont in the time of his progenitors kings of England; and that no man be compelled to go out of his shire, but where necessity requireth, and suddain coming of strange enemies into the realm; and then it shall be done as hath been used in times past for the defence of the realm.

25 EDW. III.—1350.

STAT. 5. CHAP. VIII.

None shall be bound to find men of arms, but by tenure or grant by parliament.

Item, it is accorded and assented that no man shall be constrained to find men of arms, hoblars, nor archers, other than those which hold by such services, if it be not by common assent and grant made in parliament.

2 EDW. III.—1328.

CHAP. VIII.

No commandment under the king's seal shall disturb or delay justice.

Item, it is accorded and established, that it shall not be commanded by the great seal nor the little seal, to disturb or delay common right ; and though such commandments do come, the justices shall not therefore leave to do right in any point.

EDW. III.
1327-1377.

4 EDW. III.—1330.

CHAP. II.

The authority of justices of assize, gaol delivery, and of the peace.

Item, it is ordained, that good and discreet persons, other than of the places, if they may be found sufficient, shall be assigned in all the shires of England, to take assizes, juries, and certifications, and to deliver the gaols ; and that the said justices shall take the assizes, juries, and certifications, and deliver the gaols, at the least three times a year, and more often if need be. Also there shall be assigned good and lawful men in every county to keep the peace. And at the time of the assignments, mention shall be made that such as shall be indicted or taken by the said keepers of the peace shall not be let to mainprise by the sheriffs, nor by none other ministers, if they be not mainpernable by the law ; and that such as shall be indicted shall not be delivered but at the common law. And the justices assigned to deliver the gaols shall have power to deliver the same gaols of those that shall be indicted

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before the keepers of the peace ; and that the said keepers shall send their indictments before the justices, and they shall have power to enquire of sheriffs, gaolers, and other, in whose ward such indicted persons shall be, if they make deliverance or let to mainprize any so indicted which be not mainpernable, and to punish the said sheriffs, gaolers, and others if they do anything against this act.

25 EDW. III.—1350.

STAT. 5. CHAP. II.

A Declaration of which offences shall be adjudged
Treason.

Whereas divers opinions have been before this time in what case treason shall be said, and in what not : The king, at the request of the lords and of the commons, hath made a declaration in the manner as hereafter followeth ; that is to say, when a man doth compass or imagine the death of our lord the king, or of our lady his consort, or of their eldest son and heir ; or if a man do violate the king's consort, or the king's eldest daughter unmarried, or the consort of the king's eldest son and heir ; or if a man do levy war against our lord the king in his realm, or be adherent to the king's enemies in his realm, giving to them aid and comfort in the realm or elsewhere, and thereof be proveably attainted of overt act by people of his condition ; and if a man counterfeit the king's great or privy seal, or his money ; and if a man bring false money into this realm, counterfeit to the money of England, as the money called Lushburgh, or other like to the said money of England, knowing the money to be false, to merchandize or make payment in deceit of our said lord the king and of his people ; and if a man slay the chancellor, treasurer, or the king's justices of the one bench or the other, justices in eyre or justices

of assize, and all other justices assigned to hear and determine, being in their places doing their offices.

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1327-1377.

And it is to be understood that in the cases above rehearsed, that ought to be judged treason which extends to our lord the king, and his royal majesty; and of such treason the forfeiture of the escheats pertaineth to our sovereign lord, as well of the lands and tenements holden of other as of himself.

And moreover there is another manner of treason, that is to say, when a servant slayeth his master, or a wife her husband, or when a man secular or religious slayeth his prelate to whom he oweth faith and obedience; and of such treason the escheats ought to pertain to every lord of his own fee.

And because that many other like cases of treason may happen in time to come, which a man cannot think nor declare at this present time; it is accorded that if any other case of supposed treason, which is not above specified, doth happen before any justices, the justices shall tarry without any going to judgement of the treason till the cause be showed and declared before the king and his parliament, whether it ought to be judged treason or other felony.

And if percase any man of this realm ride armed covertly or secretly with men of arms against any other, to slay him, or rob him, or take him, or retain him till he hath made fine or ransom for to have his deliverance, it is not the mind of the king nor his council that in such case it shall be judged treason, but shall be judged felony or trespass according to the laws of the land of old time used, and according as the case requireth.

And if in such case or other like, before this time, any justices have judged treason, and for this cause the lands and tenements have come into the king's hands as forfeit, the chief lords of the fee shall have the escheats of the tenements holden of them, whether that the same tenements be in the king's hands or in others, by gift or in other manner; saving always to our lord the king the year and the waste, and the forfeitures of chattels which pertain to him in the cases above named; and that the writs of *scire facias* be granted in such case against the land tenants without other original and without allowing

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the protection of our lord the king in the said suit; and that of the lands which be in the king's hands, writs be granted to the sheriffs of the counties where the lands be to deliver them out of the king's hands without delay.

CHAP. III.

No indicter shall be put upon the inquest of the party indicted.

Item, it is accorded that no indicter shall be put in inquests upon deliverance of the inditees of felonies or trespass, if he be challenged for that same cause by him which is so indicted.

CHAP. IV.

None shall be condemned upon suggestion without lawful presentment.

Item, whereas it is contained in the Great Charter of the franchises of England, that none shall be imprisoned nor put out of his freehold, nor of his franchises nor free custom, unless it be by the law of the land; it is accorded, assented, and stablished, that from henceforth none shall be taken by petition or suggestion made to our lord the king, or to his council, unless it be by indictment or presentment of good and lawful people of the same neighbourhood where such deeds be done, in due manner, or by process made by writ original at the common law; nor that none be ousted of his franchises, nor of his freehold, unless he be duly brought into answer and forjudged of the same by the course of the law; and if anything be done against the same, it shall be redressed and holden for none.

CHAP. XIV.

For effectual Process against him that is indicted of Felony.

Item, it is accorded that after any man be indicted of felony before the justices in their sessions to hear and de-

termine, it shall be commanded to the sheriff to attach his body by writ or by precept, which is called a *capias*. And if the sheriff return in the same writ or precept that the body is not found, another writ or precept of *capias* shall be incontinently made, returnable at three weeks after. And in the same writ or precept it shall be comprised that the sheriff shall cause to be seized his chattels, and safely to keep them till the day of the writ or precept returned. And if the sheriff return that the body is not found and the indictor cometh not, the exigend shall be awarded, and the chattels shall be forfeit as the law of the crown ordaineth ; but if he come and yield himself, or be taken by the sheriff or by other minister before the return of the second *capias*, then the goods and chattels shall be saved.

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28 EDW. III.—1354.

CHAP. III.

No person shall be condemned without his answer.

No man, of what estate or condition that he be, shall be put out of land or tenement, nor taken, nor imprisoned, nor disinherited, nor put to death, without being brought to answer by due process of the law.

CHAP. XIII.

An inquest shall be *de medietate linguæ* where an alien is party.

2. That in all manner of inquests and proofs which be to be taken or made amongst aliens and denizens, be they merchants or other, as well before the mayor of the staple as before any other justices or ministers, although the king be party, the one half of the inquest or proof

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shall be denizens, and the other half of aliens, if so many aliens and foreigners be in the town or place where such inquest or proof is to be taken that be not parties, nor with the parties in contracts, pleas, or other quarrels, whereof such inquests or proofs ought to be taken ; and if there be not so many aliens, then shall there be put in such inquests or proofs as many aliens as shall be found in the same towns or places which be not thereto parties, nor with the parties as afore is said, and the remnant of denizens which be good men and not suspicious to the one party nor to the other.

34 EDW. III.—1360.

CHAP. IV.

What sort of people shall be returned upon every jury.

Because that the sheriffs and other ministers often do array their panels in all manner of inquests of people procured, and most far off from the counties, which have no knowledge of the deed whereof the inquest shall be taken ; it is accorded that such panels shall be made of the next people, which shall not be suspect nor procured ; and that the sheriffs, coroners, and other ministers which do against the same shall be punished before the justices that take the said inquest, according to the quantity of their trespass, as well against the king as against the party, for the quantity of the damage which he hath suffered in such manner.

36 EDW. III.—1362.

CHAP. XV.

Pleas shall be pleaded in the English tongue.

Because it is often showed to the king by the prelates, dukes, earls, barons, and all the commonalty, of the great mischiefs which have happened to divers of the realm, because the laws, customs, and statutes of this realm be not commonly known in the same realm for that they be pleaded, shewed, and judged in the French tongue which is much unknown in the said realm, so that the people which do implead or be impleaded in the king's court, and in the courts of other, have no knowledge nor understanding of that which is said for them or against them by their serjeants and other pleaders; and that reasonably the said laws and customs the rather shall be perceived and known, and better understood in the tongue used in the said realm, and by so much every man of the said realm may the better govern himself without offending of the law, and the better keep, save, and defend his heritage and possessions; and in divers regions and countries where the king, the nobles, and other of the said realm have been, good governance and full right is done to every person because that their laws and customs be learned and used in the tongue of the country:

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The king, desiring the good governance and tranquillity of his people, and to put out and eschew the harms and mischiefs which do or may happen in this behalf by the occasions aforesaid, hath ordained and stablished by the assent aforesaid, that all pleas which shall be pleaded in any courts whatsoever before any of his justices whatsoever, or in his other places, or before any of his other ministers whatsoever, or in the courts and places of any other lords whatsoever within the realm, shall be pleaded, shewed, defended, answered, debated, and judged in the English tongue, and that they be entered and inrolled in Latin; and that the laws and customs of the same realm, terms, and processes, be holden and kept as they be and

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have been before this time; and that by the ancient terms and forms of the declarations no man be prejudiced, so that the matter of the action be fully shewed in the declaration and in the writ. And it is accorded by the assent aforesaid, that this ordinance and statute of pleading begin and hold place at the fifteenth of Saint Hillary next coming.

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IN this reign there is a continuance of the series of early measures for preserving the purity of the administration of justice ; and it may therefore be convenient to place these at once in immediate connection with the selections we have just made on the subject from the statute-roll of his predecessor. If not of much general constitutional importance, taken by themselves, they are all of value when considered as proofs of continual practical regard for free institutions, and of concern for the interests, not merely of favoured bodies, but of all classes of the community. The commencements of the statutes of the session continue to be occasionally cited, as illustrative of the varying style of legislation.

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The freedom and independence of parliament during this reign are well elucidated by the subjoined plain-speaking remonstrance, pronounced against the prodigalities of the court, to whose irregularities the late popular commotions were attributed. The reader need hardly be reminded that, when milder measures failed of their effect, parliament vindicated its authority, and practically enforced the observance of the people's rights, by

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resorting to one of the most important safeguards against misgovernment—the impeachment of a bad minister, Michael de la Pole earl of Suffolk. When even this was ineffectual, it assumed “a preventive as well as vindictive control over the administration of affairs,” and put the king under the only restraint which seemed likely to avail in times when those means had not yet been devised which modern policy has developed for accomplishing the same end indirectly. And lastly, in 1399 was established a great parliamentary precedent for recurring (as was subsequently done under the same necessity in 1688) to the elementary principles of government, in the deposition of a tyrant whose continued sway could only be maintained by the sacrifice of all the ends of government.

Considering this proceeding as a great constitutional measure, planned and executed with so much care and technical formality as to make it plain that the movers conceived themselves acting judicially, and in a mode not only consonant with constitutional principle and practice but capable of serving as a precedent for future cases of similar emergency, we shall subjoin the material parts of the record of what passed and now appears on the parliamentary roll.

“The revolution which elevated Henry IV. to the throne,” observes Mr. Hallam, “was certainly so far accomplished by force that the king was in captivity, and those who might still adhere to him in no condition to support his authority. But the sincere concurrence, which most of the prelates and nobility, with the mass of the people, gave to

changes that could not have been otherwise effected by one so unprovided with foreign support as Henry, proves this revolution to have been, if not an indispensable, yet a national act, and should prevent our considering the Lancastrian kings as usurpers of the throne. Nothing indeed looks so much like usurpation in the whole transaction, as Henry's remarkable challenge of the crown, insinuating, though not avowing, as Hume has justly animadverted upon it, a false and ridiculous title by right line of descent, and one equally unwarrantable by conquest. The course of proceedings is worthy of notice. As the renunciation of Richard might well pass for the effect of compulsion, there was a strong reason for propping up its instability by a solemn deposition from the throne, founded upon specific charges of misgovernment. Again, as the right of dethroning a monarch was no where found in the law, it was equally requisite to support this assumption of power by an actual abdication. But as neither one nor the other filled the duke of Lancaster's wishes, who was not contented with owing a crown to election, nor seemed altogether to account for the exclusion of the house of March, he devised this claim, which was preferred in the vacancy of the throne, Richard's cession having been read and approved in parliament, and the sentence of deposition, 'out of abundant caution, and to remove all scruple,' solemnly passed by seven commissioners, appointed out of the several estates. 'After which challenge and claim,' says the record, 'the lords spiritual and temporal, and all the estates there present, being asked sepa-

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rately and together what they thought of the said challenge and claim, the said estates, with the whole people, without any difficulty or delay, consented that the said duke should reign over them.' The claim of Henry, as opposed to that of the earl of March, was indeed ridiculous; but it is by no means evident that, in such cases of extreme urgency as leave no security for the common weal but the deposition of a reigning prince, there rests any positive obligation upon the estates of the realm to fill his place with the nearest heir. A revolution of this kind seems rather to defeat and confound all prior titles, though in the new settlement it will commonly be prudent, as well as equitable, to treat them with some regard. Were this otherwise, it would be hard to say why William III. reigned to the exclusion of Anne, or even of the Pretender, who had surely committed no offence at that time; or why (if such indeed be the true construction of the Act of Settlement) the more distant branches of the royal stock, descendants of Henry VII. and earlier kings, have been cut off from their hope of succession by the restriction to the heirs of the princess Sophia.

"In this revolution of 1399 there was as remarkable an attention shown to the formalities of the constitution, allowance made for the men and the times, as in that of 1688. The parliament was not opened by commission; no one took the office of president; the commons did not adjourn to their own chamber; they chose no speaker; the name of parliament was not taken, but that only of estates of the realm. But as it would have been a violation of constitutional principles to assume a par-

liamentary character without the king's commission, though summoned by his writ, so it was still more essential to limit their exercise of power to the necessity of circumstances. Upon the cession of the king, as upon his death, the parliament was no more; its existence, as the council of the sovereign, being dependent upon his will. The actual convention, summoned by the writs of Richard, could not legally become the parliament of Henry; and the validity of a statute declaring it to be such would probably have been questionable in that age, when the power of statutes to alter the original principles of the common law was by no means so thoroughly recognized as at the Restoration and Revolution. Yet Henry was too well pleased with his friends to part with them so readily; and he had much to effect before the fervour of their spirits should abate. Hence an expedient was devised, of issuing writs for a new parliament, returnable in six days. These neither were nor could be complied with; but the same members as had deposed Richard sat in the new parliament, which was regularly opened by Henry's commissioner as if they had been duly elected. In this contrivance, more than in all the rest, we may trace the hand of lawyers."

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On the occasion of determining as to Richard's future treatment, we find the opportunity again taken of formally and clearly tracing out the distinctive functions of the estates in parliament. The commons disclaimed any participation in the judicial sentence passed, which they said belonged only to the king and the lords. The archbishop of Canterbury answers by command of the

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king, "that the commons were *petitioners* and *demanders*, and that the king and the lords of all time had and ought to have of right the *judgements* in parliament, in manner as the commons had shown; save that in a *statute* to be made, or in *grants* or *subsidies*, or such *things to be done for the common profit of the realm*, the king would have *especially their advice and consent*:—and this order of proceeding should be holden and kept in all time to come."

Irregularities and inconveniences arising out of the lax and uncertain mode in which laws when agreed upon in parliament still continued to be drawn up and entered on the statute-roll, led to remonstrances on the part of the commons. They found that notwithstanding the statute of 15 Edw. II. laws were still actually promulgated—chiefly through the agency of the clergy—which they not only did not approve, but which they had actually rejected. Under Edward the Third the commons had remonstrated against these clerical manœuvres; but in the fifth year of Richard's reign the clergy had the address to put upon the roll an ordinance empowering the sheriffs of counties to assist in suppressing heresy, and punishing its abettors, which still keeps its fraudulent position in our statute-book, as 5 Rich. II. st. 2. c. v. In the next parliament the commons expressed not only a resistance to this unconstitutional attempt at legislation, but a feeling on the subject-matter of the law, highly creditable to themselves. They prayed that the pretended statute might be annulled, "for that it never was their intention to bind themselves or their de-

scendants to the bishops, more than their ancestors had been bound in times past." The commons are as little answerable for the burning statute of 2 Hen. IV. which obtained its enactment in an equally irregular manner. However blameable their successors became in ultimately completing the bloody code of persecution thus begun, it is at least creditable to the people's house, that the commencement of the work not only arose elsewhere, but had their decided reprobation and opposition*.

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* The Clarendon *Assisa* of Henry the Second, enacted probably about 1170, had, it is true, directed in sect. 21, that the *house* which harboured heretics, or *publicans* as they are called (being those, or their followers, who were excommunicated and branded about 1165 under the decree of the ecclesiastical council of Oxford), *shall be carried out of the town and burnt*; but this we may at least consider a more lenient course than burning the owner.

This *assisa* might have been noticed before, as an early Anglo-Norman *statute*, perfectly formal as a piece of legislation. It is entitled, "*Assiza facta apud Clarendune, quam dominus Rex Henricus, consilio archiepiscoporum et episcoporum et abbatum, cæterorumque baronum suorum, statuit pro pace servandâ et justiciâ tenendâ.*" In the record of the plea between the bishop of Chichester and the abbot of Battel, which we find in the same rich store of constitutional materials,—Sir F. Palgrave's *Rise and Progress of the English Commonwealth*,—the same king, Henry the Second, is incidentally mentioned as holding his court on the 19th December 1154, on which occasion he was crowned. The record states, "*totius Angliæ primoribus ad eum confluentibus, justè consilio eorum omnia disponebat;*" "*et in sequente quadragesimâ congregavit generale concilium apud Londoniam, et renovavit pacem, et leges et consuetudines per Angliam ab antiquis temporibus constitutas.*" The record also mentions "*populi multitudo non modica,*" as contributing with

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After the previous ineffectual attempts to control any infringement on the right of the commons to a fair and equal voice, not only as to the substance, but the particular provisions of every law, the root of the evil is boldly struck at by the subjoined petition of right, which received the royal sanction, and is doubly curious from its presenting the earliest instance of the use of the English language by the house in its proceedings. In the 8th of Henry the Fourth it was as a further security directed, on the petition of the commons, "that certain of the Commons' House should be present at the *engrossing* of the parliament roll."

the prelates, barons, &c. to form the assemblage at the great council in which this plea was heard before the king; and the people are expressly mentioned as giving vent to their feelings and opinions so as in fact to influence the course of the litigants. The king is reported as consulting at the close of the argument on the judgement to be given, with the entire assemblage, except the two immediate parties, who are removed. The whole document is highly interesting as a picture of ancient Norman judicial proceedings before the king in full council.

8 RICH. II.—1384.

ADMINISTRATION OF JUSTICE.

To the honour of God and at the request of the commonalty of the realm of England made to our lord the king in his parliament holden at Westminster in the morrow of Saint Martin, the eighth year of his reign; the same our lord the king, of the assent of the prelates, great men, and commons aforesaid, hath caused to be made in the same parliament a certain statute for the common profit of the said realm, and especially for the good and just governance and due execution of the common law, in the form following.

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CHAP. II.

No man of law shall be justice of assize or gaol delivery in his own country.

Item, it is ordained and assented that no man of law shall be from henceforth justice of assizes, or of the common deliverance of gaols, in his own country; and that the chief justice of the common bench be assigned amongst other to take such assizes and deliver gaols. But as to the chief justice of the king's bench, it shall be as for the most part of an hundred years last past was wont to be done.

20 RICH. II.—1396.

THE king at his parliament holden at Westminster, in the feast of Saint Vincent the twentieth year of his reign, by the assent of the prelates, lords, and commons of his realm of England assembled in the same present parlia-

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ment, for the quietness and tranquillity of his people, hath made certain statutes and ordinances in the form which followeth.

CHAP. III.

No man shall sit upon the bench with the justices of assize.

Item, the king doth will and forbid that no lord, nor other of the country, little nor great, shall sit upon the bench with the justices to take assizes, in their sessions in the counties of England, upon great forfeiture to the king; and hath charged his said justices that they shall not suffer the contrary to be done.

5 RICH. II.—1381.

PARLIAMENTARY REMONSTRANCE AS TO THE CAUSES OF THE POPULAR COMMOTIONS UNDER WAT TYLER AND OTHERS.

[Rot. Parl. vol. iii. p. 100.]

Also the commons aforesaid returned other time into parliament, making their protestation as before, saying, that upon the charges to them given they had diligently communed with the prelates and lords, and that it seemed to them that unless the administration of the kingdom were speedily reformed, the kingdom itself would be utterly lost and ruined for ever, and therein their lord the king with all the peers and commons, which God forbid. For true it is that there are such defects in the said administration, as well about the king's person and his household as in his courts of justice; and by grievous oppressions in the country through maintainers of suits, who are, as it were, kings in the country, that right and law are come to nothing, and the poor commons are from time to time

so pillaged and ruined, partly by the king's purveyors of the household, and others who pay nothing for what they take, partly by the subsidies and tallages raised upon them, and besides by the oppressive behaviour of the servants of the king and other lords, and especially of the aforesaid maintainers of suits, they are reduced to greater poverty and discomfort than ever they were before. And moreover though great sums have been continually granted by and levied upon them for the defence of the kingdom, yet they are not the better defended against their enemies, but every year are plundered and wasted by sea and land, without any relief. Which calamities the said poor commons, who lately used to live in honour and prosperity, can no longer endure. And to speak the real truth, these injuries lately done to the poorer commons more than they ever suffered before, caused them to rise, and to commit the mischief done in their late riot; and there is still cause to fear greater evils, if sufficient remedy be not timely provided against the outrages and oppressions aforesaid. Wherefore may it please our lord the king, and the noble peers of the realm now assembled in this parliament, to provide such remedy and amendment as to the said administration that the state and dignity of the king in the first place, and of the lords, may be preserved as the commons have always desired, and the commons may be put in peace; removing, as soon as they can be detected, evil ministers and counsellors, and putting in their stead the best and most sufficient, and taking away all the bad practices which have led to the last rising, or else none can imagine that this kingdom can long subsist without greater misfortunes than it ever endured. And for God's sake let it not be forgotten, that there be put about the king, and of his council, the best lords and knights that can be found in the kingdom.

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And be it known that after the king our lord with the peers of the realm and his council had taken advice upon these requests made to him, for his good and his kingdom's, as it really appeared to him, he willed and granted that certain bishops, lords, and others should be appointed to survey and examine in privy council both the government of the king's person and of his household, and to

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suggest proper remedies wherever necessary, and report them to the king. And it was said by the peers in parliament, that, as it seemed to them, if reform of government were to take place throughout the kingdom, it should begin by the chief member, which is the king himself, and so from person to person, as well churchmen as others, and place to place, from higher to lower, without sparing any degree.

And there were elected in the palace aforesaid for this purpose the lords under written ; that is to say, the duke of Lancaster, the archbishop of Canterbury, the archbishop of York, the bishops of Winchester, Ely, Exeter, and Rochester, the earls of Arundele, Warwick, Stafford, Suffolk, and Salisbury ; lord Delazouch, lord Nevile, lord Grey de Ruthin, lord Fitzwalter, Sir Richard le Scrope, Sir Guy de Bryen and others ; and on this charge they sat in privy council many days, without doing anything else in parliament.

And be it remembered that the confessor of our lord the king was charged, in the presence of the king and the lords, that he should abstain from coming or abiding in the palace of the king, save only at the four principal feasts of the year ; and this was done by the assent of the lords, and the request of the commons, who had prayed the king to have the said confessor removed from the king and from his office.

5 RICH. II.—1381.

PETITION OF THE COMMONS AS TO EQUAL PARTICIPATION IN DRAWING UP STATUTES.

[Rot. Parl. vol. iii. p. 22.]

Item, fait a remembre, que les communs baillèrent a roi, notre seigneur tres souverain en cest present parlement une petition, dont le tenure ensuyt de mot a mot.

“Oure souverain lord, youre humble and trewe lieges that

ben come for the comune of youre lond bysechyn onto youre riȝt riȝtwesnesse, That so as hit hath ever be thair lib'te and fredom, that thar sholde no statut no lawe be made offlasse than they gaf therto their assent: consideringe that he comune of youre lond, the whiche that is and ever hath be a membre of youre parlemente, ben as well assenters as petitioners; that fro this tyme foreward, by compleynte of the comune of any myschief axkyng remedie by mouthe of their speker for the comune, other ellys by petition writen, that ther never be no lawe made theruppon, and engrosed as statut and lawe, nother by addicions, nother by diminucions, by no manner of terme ne termes, the whiche that sholde chaunge the sentence and the entente axked by the speker mouthe, or the petitions before-said geven up yn writyng by the manere forsaid, withoute assent of the forsaid comune: Consideringe, oure sovereign lord, that it is not in no wyse the entente of youre comunes, gif yet be so that they axke you by spekyng, or by writyng, two thynges or three, or as manye as theym lust, but that ever it stande in the fredom of youre hie regalie, to graunte whiche of thoo that you luste, and to werune the remanent."

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RESPONSIO.

"The kyng of his grace especial graunteth that fro hensforth nothyng be enacted to the petitions of his comune that be contrarie of hir askyng, wharby they shuld be bounde withoute their assent. Savyng alwey to our liege lord his real prerogatif, to graunte and denye what him lust of their petitions and askynges aforesaide."

1399.

RECORD OF THE DEPOSITION OF RICHARD II.
AND THE ELECTION OF HENRY IV.

[Rot. Parl. vol. iii.]

RICH. II.
1377-1399.

THE roll of parliament summoned and holden at Westminster on the feast of Saint Faith the Virgin, in the first year of the reign of King Henry IV. after the conquest.

The record and process of the renunciation of King Richard II. after the conquest, and likewise the acceptance of the same renunciation, with the deposition of the same King Richard afterwards ensuing :

“ BE it remembered, that on Monday the feast of Saint Michael the archangel, in the three-and-twentieth year of the reign of King Richard II. the lords spiritual and temporal and other persons of note ; that is to say, the lord Richard le Scrope archbishop of York, John bishop of Hereford, Henry earl of Northumberland, and Ralph earl of Westmoreland ; the lord Hugh de Burnel, Thomas lord de Berkeley, the prior of Canterbury, with the abbot of Westminster, William Thyrning knight, and John Markham, justices ; Thomas Stow and John Burbache, doctors of laws, Thomas de Erpingham and Thomas Gray, knights, William de Feryby and Dionysius Lapham, public notaries, first deputed to the act under written by the assent and advice of several of the lords spiritual and temporal, and of the judges and others skilful as well in the civil and canon law as in the laws of the realm, assembled at Westminster in the usual place of council ; did about nine of the clock come to the presence of the said king, being within the tower of London. And it being recited before the said king, by the said earl of Northumberland, in the behalf of all the rest before-named, so as aforesaid joined with him, how the said king heretofore at Conway in North Wales, being at liberty, did promise unto the lord Thomas archbishop of Canterbury and the earl of Northumberland, that he would yield up and renounce the crown of England and France and his regal

majesty, for causes of his inability and insufficiency there by the said king himself confessed, and that in the best manner and form the same could be done as counsel learned should best order; the said king before the said lords and others above named hereunto benignly answered that he would with effect accomplish what before in that behalf he had promised, but desired to have some discourse with his cousins, Henry duke of Lancaster and the said lord archbishop of Canterbury, before he fulfilled such his promise.

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Afterwards, the same day after dinner, the said king much affecting the coming of the said duke of Lancaster, and having long waited for him, at last the said duke of Lancaster, the lords and others above named, and also the said archbishop of Canterbury, did come to the presence of the said king in the Tower aforesaid; the lords de Roos, de Willoughby, and de Bergavenny, and very many others being then there present; and after the said king had had discourse with the said duke of Lancaster and archbishop, exhibiting a merry countenance here and there amongst them to part thereof, as appeared to those that stood round about, at last the said king, calling to him all that were there present, did publicly say before them that he was ready to make the renunciation, and to renounce and recede according to the promise by him made as aforesaid. And so forthwith, although as was said unto him he might have made some deputy to have served as the organ of his voice for avoiding so tedious a labour as the reading of the said cession and renunciation reduced by others into a schedule of parchment; yet the said king very willingly, as appeared, and with a pleasant countenance, holding the said schedule in his hand, said that he himself would read it, and distinctly read the same through; and also did absolve all his liege people, and renounce and recede, and swear, and other things did say and pronounce in reading, and did subscribe it with his own hand, as is more fully contained in the said schedule; the tenor whereof is such.

Consent to
renounce the
crown.

‘In the name of God, Amen. I Richard, by the grace of God, King of England and France, and Lord of Ireland, do absolve the archbishops, bishops, and other pre-

Renuncia-
tion.

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lates of churches, secular or regular, of whatsoever dignity, degree, state, or condition they be; the dukes, marquisses, earls, barons, vassals, and valvasors; and all and every my liege people whatsoever, ecclesiastics or seculars, of all the said kingdoms and dominions, by what name soever they are known, from the oath of fealty and homage and other oaths whatsoever to me made, and from all bond or tye of liegiance, royalty, and dominion, whereby they have been or are obliged or otherwise in any manner bound unto me. And I do free, release, and acquit them and their heirs and successors for ever from the said oaths and other obligations whatsoever. And I do dismiss them free, unloosen, quit, and in full immunity as far as relates to my person, to every effect of law which may follow from the premises, or any of them. And I do purely of my own accord, simply and absolutely, in and by the best manner, way, and form that may be, in these writings, renounce and totally resign all kingly dignity and majesty, and the crown and dominion and power of the said kingdoms and dominions, and all other my dominions and possessions, or any way belonging or appertaining unto me, by what name soever they may be reckoned up within the aforesaid kingdoms or elsewhere; and all right and colour of right and title, possession and dominion, which at any time I have had, now have, or by any means shall have in or to the same, or any of them, with their universal rights and appurtenances, or any dependencies however on them or any of them. And also the rule and government of the said kingdoms and dominions and their administration, and all manner of meer and mixt empire and jurisdiction to me in the said kingdoms belonging, or that may be belonging; and the name of king, and the honour, regality, and celsitude royal, purely, voluntarily, simply, and absolutely, by the best manner way and form that the same can be done in these writings, I do renounce, and them do totally resign, and in deed and in word dismiss and quit the same, and from them do recede for ever; saving to my successors kings of England the rights to them or any of them belonging, or that shall any way belong in the said kingdoms or dominions, and all other the premises for ever. And

I do confess, acknowledge, repute, and truly and out of certain knowledge do judge myself to have been and to be utterly insufficient and unuseful for the rule and government of the said kingdoms and dominions, with all their appurtenances; and that for my notorious demerits I deserve to be deposed. And I do swear upon these holy gospels of God, by me corporally touched, that I will never act contrary to the said resignation, renunciation, dismissal, and cession, nor any way oppose the same in deed or in word by myself or any other or others; nor will, as much as in me lies, permit the same publicly or privately to be contraried or opposed; but the said renunciation, resignation, dismissal, and cession, will for ever esteem ratified and well-pleasing, and firmly hold and observe the same in the whole and in every part: so God me help, and these holy gospels of God.

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I the before-named King Richard do here subscribe myself with my own hand.'

And presently to the said renunciation and cession the said king added by word of mouth, that if it lay in his power the said duke of Lancaster should succeed him in his kingdom. But because, as he said, this did not depend on his pleasure, he did request the said archbishop of York and bishop of Hereford, whom he for that time had constituted his procurators to declare and intimate such his cession and renunciation to the states of the kingdom, that they would be pleased to signify to the people his will and intention in that behalf. And in token of such his will and intention, did then and there openly pluck off the golden ring of his signet from his own finger and put it upon the finger of the said duke of Lancaster, desiring, as he affirmed, that the same might be made known to all the states of the kingdom. Which being done, taking their leaves on both sides, they all went out of the said Tower to return to their lodgings.

Confirmation.

But on the morrow, *viz.* Tuesday the feast of Saint Jerome, in the great hall at Westminster, in the place honourably prepared for holding the parliament, the said archbishops of Canterbury and York and the duke of Lancaster, and other dukes and lords as well spiritual as temporal whose names are under written, and the commons

Presentment to parliament.

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of the said kingdom assembled in a great multitude in parliament, being present, and the said duke of Lancaster being seated in a place due to his quality, and the chair of state being solemnly adorned with cloth of gold, but then empty, without any person whatever presiding therein; the above-named archbishop of York, in the name of himself and of the said bishop of Hereford, according to the order of the said king, did publicly declare the cession and renunciation to have been so made by him as aforesaid, with the subscription of his royal hand and delivery of his signet. And the said cession and renunciation did there cause to be read by another, first in Latin and then in English.

Acceptance.

Immediately after which, it was demanded of the estates and people there present, to wit, first of the archbishop of Canterbury, to whom, by reason of the dignity and prerogative of his metropolitan church of Canterbury, it belongs in such behalf to have the first voice amongst the rest of the prelates and nobles of the realm, whether for their interest and the utility of the kingdom, they would be pleased to admit such renunciation and cession. And the said states and people, judging from the causes by the said king himself, in his renunciation and cession aforesaid, signified, that the same was very expedient, did each man singly by himself and in common with the people unanimously admit the said cession and renunciation.

Reasons for
deposition.

After which admission, it was then and there publicly declared, that besides such cession and renunciation so as aforesaid admitted, it would be very expedient and profitable to the kingdom for the removing of all scruples and taking away sinister suspicions, that very many crimes and defects, by the said king about the ill governance of his kingdom very often committed, reduced into writing by way of articles, by reason of which, as himself affirmed in the cession by him made, he was deservedly to be deposed, should be publicly read and declared to the people. And so the greatest part of the said articles were then and there read through; the tenor of all which articles is such."

Articles.

[Then follow on the record, a recital of Richard's oath on his coronation, and fifty objections or articles of

impeachment, setting forth elaborately the king's violent and unconstitutional proceedings and "other frauds and deceitful tricks of the said king."

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After these articles and objections, which it is not important to set forth here, the record proceeds ;]

"And because it seemed to all the estates of the realm, being asked their judgements thereupon as well severally as jointly, that these causes of crimes and defaults were sufficient and notorious to depose the said king; considering also his own confession of his insufficiency and other things contained in his said renunciation and cession openly delivered; all the said states did unanimously consent that *ex abundanti* they should proceed unto a deposition of the said king, for the greater security and tranquillity of the people and benefit of the kingdom. Whereupon the said states and commons unanimously constituted and publicly deputed certain commissioners, viz. the bishop of St. Asaph, the abbot of Glastonbury, the earl of Gloucester, the lord Berkeley, Sir Thomas Erpyngham, and Sir Thomas Grey, knights, and Sir William Thirnyng one of the justices, to pass such sentence of deposition, and to depose the said King Richard from all kingly dignity, majesty, and honour, on the behalf and in the name and by the authority of all the said states, as in like cases from the ancient custom of the said kingdom had been observed. And forthwith the said commissioners, taking upon themselves the burthen of the said commission and sitting on a tribunal before the said royal chair of state, having first had some debate of the matter, did on the behalf, and in the name and by the authority aforesaid, pass the said sentence of deposition, being reduced into writing, and caused such their sentence to be read and recited by the said bishop of St. Asaph their colleague, by the will and command of the said commissioners, in these words ;

Judgement
of deposi-
tion.

'In the name of God, Amen. We, John bishop of St. Asaph, John abbot of Glastonbury, Thomas earl of Gloucester, Thomas lord Berkeley, Thomas de Erpyngham and Thomas Grey, knights, and William Thirnyng, justice, commissioners specially deputed to the matters under-written by the peers and lords spiritual and tem-

Sentence.

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poral of the kingdom of England, and the commons of the said kingdom, representing all the estates of the said realm sitting in tribunal ; and having considered the multiplied perjuries, cruelty, and very many other crimes of the said Richard, touching his government, committed and perpetrated in his kingdoms and dominions aforesaid during the time of his governance ; all of them before the said states openly and publicly propounded, exhibited, and recited, which have been and are so public, notorious, manifest, and scandalous, that they could not nor can be concealed with denial or excuse : And considering likewise the confession of the said Richard, acknowledging and reputing and truly and of his own certain knowledge judging himself to have been and to be utterly insufficient and unmeet for the rule and government of the said kingdoms and dominions and their appurtenances, and for such his notorious demerits worthy to be deposed, as by him the said Richard was before declared, and by his will and command published before the said states, and made known and exposed to them in the vulgar tongue ; having already had diligent deliberation upon these things and all others transacted in this affair before the said states and us ; we do, on the behalf, and in the name and by the authority to us in this matter committed, *ex abundanti* and for caution, pronounce, decree, and declare him the said Richard to have been and to be unfit, unable, and utterly insufficient for and unworthy of the rule and government of the said kingdoms, and the dominion and rights and appurtenances of the same ; and for and by reason of the premises to be deservedly deposed of and from all royal dignity and honour, if anything of such dignity and honour were yet remaining in him. And with the same caution we do depose him by this our definitive sentence in writing, expressly forbidding all and singular the lords archbishops, bishops, and prelates, dukes, marquisses, earls, barons, knights, vassals, and valvasors, and other subjects and liege people of the said kingdoms and dominions, and other places to the said kingdoms and dominions belonging, that henceforth none of them shall any way obey or regard the said Richard as king or lord of the said kingdom and dominion.'

Furthermore, the said states willing that nothing should be wanting which might be of value or ought to be required touching the premises, being severally interrogated thereupon, did constitute the same persons that were before nominated commissioners to be their procurators, jointly and severally to resign and give back to the said King Richard the homage and fealty to him before made, and to intimate to him, if it should be requisite, all the premises touching such his deposition and renunciation.

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1377-1399.
Authority to
resign fealty.

And then presently, as soon as it appeared by the premises and the occasion of them, that the crown of England with its appurtenances was vacant, the aforesaid Henry duke of Lancaster, rising up from his place and standing so erected as he might conveniently be seen by the people, and humbly fortifying himself with the sign of the cross on his forehead and on his breast, having also first called upon the name of Christ, did claim the said kingdom so vacant as aforesaid, with its crown and all its members and appurtenances, in this form of words in his mother tongue.

Claim of
the vacant
crown.

‘In the name of Fader, Son, and Holy Gost. I Henry of Lancaster challenge this rewme of Ynglonde and the croun with all the members and the appurtenances ; als I that am descendit be right line of the blode, comyng fro the gude lord King Henry Therde, and thorghe that right that God of his grace hath sent mee, with helpe of my kyn and of my frendes, to recover it ; the which rewme was in poynt to be ondone for defaut of governance, and undoyng of the gude lawes.’

Form of
claim.

After which claim and challenge, as well the lords spiritual as temporal and all the states there present, being severally and jointly interrogated what they thought of that claim, the said states with the whole people without any difficulty or delay did unanimously consent that the said duke should reign over them. And forthwith, as the said king showed to the states of the kingdom the signet of King Richard, delivered to him as a token of his will that he should succeed him as aforesaid ; the said archbishop taking the said King Henry by the right hand, led him to the royal chair of state. And after the said king kneeling down before it had prayed a little while, the said

Consent of
parliament
and election

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1377-1399.

archbishop of Canterbury, assisted by the archbishop of York, did place the said king and cause him to sit in the said royal seat; all the people wonderfully shouting for joy. And by and by the said archbishop of Canterbury having with much ado procured silence from the overjoyed multitude, made a short discourse or oration.

Which harangue being ended, the said lord King Henry, to appease the minds of his subjects, did then and there utter these words :

Disclaimer
of right of
conquest.

‘Sires, I thank God and yowe spirituel and temporel, and all the states of the lond; and do yowe to wyte it es noght my will that no man thynke that be way of conquest I wold disherit any man of his heritage, franchises, or other ryghts that hym ought to have, no put hym out of that that he has and has had by the gude laws and customs of the rewme, except those persons that has been agan the gude purpose and the commune profit of the rewme.’

Swearing of
officers.

And forthwith, considering that by the former vacancy of the royal throne by the cession and deposition aforesaid, all power of justices, sheriffs, and other officers throughout the kingdom was ceased; therefore, to the end that there might be no failure nor delay in the administration of justice, to the grievance of the people, he caused principal officers and justices to be made and sworn to him with the usual oaths. And it was immediately proclaimed by the king's command, that on Monday next after the said feast of Saint Michael, a parliament should be held and celebrated. And that on the Monday following, that is to say, on the feast of Saint Edward, should be the coronation of the said king at Westminster, and that all those that could claim any service in the said coronation should come to the White Hall of the palace, before the steward, constable, and marshal of England, on Saturday next before the day of the said parliament, to make their just demands in that behalf and receive right therein. But as for the shortning the day assigned to the parliament, there was a protestation made by the king that it was not his intent that thereby any prejudice should be brought upon the states of his kingdom, nor that the same for the future should be drawn into example; but that such abbreviation of time was only made

Proclama-
tion of par-
liament.

Coronation.

Protestation
against pre-
judice.

for the benefit and profit of the kingdom, and especially to save the labour and expenses of several of his people, and that the grievances of the people might be the sooner remedied.

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1377-1399.

After which the king arising from his royal throne, and beholding the people with a cheerful and benign countenance, retired himself from thence, all the people rejoicing. And the same day in the White Hall aforesaid made a solemn feast to the nobles and gentry there, in a vast multitude assembled.

Feast.

And afterwards, *viz.* on Wednesday next following, the before-named procurators so deputed as aforesaid, did, according as they were commanded, repair into the presence of the said late King Richard, being within the Tower aforesaid; and the said Sir William Thirnyng the justice, for himself and his companions and fellow procurators, in the name of all the states and people aforesaid, did notify and fully declare unto the said Richard their admission of his said renunciation, and the manner, cause, and form of such sentence of deposition, and presently did resign and give back to the said late King Richard the homage and fealty formerly to him made as aforesaid, with these words:

Resignation
of fealty.

The words which William Thirnyng spake to Monsire Richard late King of England, at the Tower of London in his chamber, on Wednesday next after the feast of Saint Michael the archangel, were as follow:

‘Sire, it is wele know to yow, that ther was a parlement somon’d of all the states of the reaume for to be at Westminster, and to begin on the Tuesday in the morn of the fest of St. Michel the archangel that was yesterday; by cause of the which summons all the states of this lond were there gadyr’d, the which states have made thes same persones that ben comen here to yowe now, her procurators, and gaven hem full autorite and power, and charged hem for to say the words that we shall say to yow in her name and on their behalve: that is to wyttē, the bishop of Seint Assa for ersbishoppes and bishoppes, the abbot of Glastenbury for abbots and priours and all other men of holy chirche, seculers and rewelers, the earle of Gloucestre for dukes and erls, the lord of Berke-

Thirnyng’s
speech
thereon.

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ley for barons and banerettes, Sir Thomas Irpyngham, chamberleyn, for all the bachilers and commons of this lond be south ; Sir Thomas Grey for all the bachilers and commons by north, and my felawe Johan Markham and me for to come with hem for all thes states. And so, sire, these words and the doing that we sall say to yowe, is not onlych our wordes but the doyns of all the states of this lond and our charge in her name.'

And he answered and said, that he wyste wele that we wold noght say but as we were charged.

'Sire, ye remembre yowe wele that on Moneday in the fest of Seint Michel the archaungel, ryght here in this chamber, and in what presence, ye renounced and cessed of the state of kynge and of lordeship, and of all the dig-nite and wyrship that longed thereto, and assoiled all your leiges of her ligeance and obeisance that longed to yowe uppe the fourme that is contened in the same renuncia-tion and cession, which ye redde your self by your mouth and affermed it by your othe and by your owne writing. Upon which ye made and ordeined your procuratours the ersbishop of York and the bishop of Hereford, for to no-tifie and declare in your name thes renunciation and ces-sion at Westmynstre to all the states and all the people that was there gadyr'd bycause of the summons aforesaid ; the which thus don yesterday by thes lords your procura-tours, and wele herde and understouden, thes renuncia-tion and cession were plenelich and frelich accepted, and fullich agreed by all the states and people foresaid. And over this, Sire, at the instance of all thes states and peo-ple, there ware certain articles of defautes in your go-vernance redde there, and tho wele herd and pleinelich understouden to all the states foresaid, hem thoght hem so trewe, and so notorie and knowen, that by tho causes and by no other as thei sayd, and havynge consideration to your own wordes in your own renunciation and cession that ye were not worthy, no sufficient, ne able for to go-vern for your owne demerites, as it is more pleinelich con-tened therein ; hem thoght that was resonable and cause for to depose yowe, and her commissaries that they made and ordein'd, as it is of record, ther declared and decreed and adjudged yow for to be deposed, and pryved yowe of

the astate of kyng and of the lordeship conteined in the renunciation and cession forsayd, and of all the dignite and wyrshipp and of all the administration that longed thereto. And we procurators to all thes states and people forsayd, as we be charged by hem, and by her autorite gyffen us and in her name, yelde yow uppe for all the states and people forsayd, homage leige, and feaute, and all leigeance, and all other bondes, charges, and services that long thereto, and that non of all thes states and people fro thys tyme forward ne bere yowe feyth, ne do yowe obeisance as to thar king.'

RICH. II. 1
1377-1399.

And he answered and seyde, that he loked not ther after, but he seyde that after all this he hoped that is cosyn wolde be gude lord to hym."

Richard's
reply.

There was no further business done the first day, but the reading of the above record before the parliament; and the Monday following, being the feast of Saint Edward, king and confessor, was appointed for Henry's coronation, which was performed at Westminster with the usual ceremonies.

Coronation.

After all this the commons on the following day chose their speaker, and business of parliament proceeded in ordinary course.

Election of
speaker, &c.

HENRY THE FOURTH.

1399-1413.

PARLIAMENTARY authority in the disposition of the crown was still further established by the passing of an act of settlement in the 7th year of Henry's reign (A. D. 1405), by which "*de la request et de l'assent des ditz seignurs et communes en dit parlement, ordeignez est et establiz*" that the inheritance of the crown "*soit mys et demoerge en la person mesme nostre seignur le roy, et en les heirs de son corps issant:*" with express limitations to each of his sons in succession, and the heirs of his body, but with no provision for a general default of such issue.

HENRY IV.
1399-1413.

In this reign was passed an enactment which, whatever was its origin—whether a direct wish to extend the right of suffrage, or, as some have thought, a desire merely to enforce the distribution as widely as possible of the onerous burden of paying the wages of parliamentary representatives—was productive of more important consequences than perhaps any other constitutional proceeding in our history.

If, as appears plausible in theory, and as there is some evidence in point of fact, the county representatives were originally only a delegation

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1399-1413.

from the tenants *in capite*, or those holding immediately of the king (as continued to be the case in Scotland), and if the latter class of landowners were, consequently, alone properly entitled to vote at elections, the confirming of the right of suffrage to all who attended the county court, by the act of 7 Hen. IV. was an immense accession to popular strength, the extent of which was probably not anticipated at the moment. It was however soon felt in its operation, for it was in no long time followed by the act of 8 Hen. VI. c. 7. which recites the inconvenience of too popular an election, and requires as the qualification of voters a freehold of forty shillings yearly value.

However this may be, the circumstance should lead us the more closely to observe, and the more deeply to prize, the constancy of our ancestors in preserving the ancient Saxon institutions, of which the county court formed a prominent part. Had no such institution continued to exist, it is not probable that the beneficial result which ensued on its becoming the scene of election would have occurred,—an accident (if it be one) to which English constitutional liberty owes its highest efficiency and permanency.

Not only was the continued existence of the ancient county court of the first constitutional importance, but the *mode* of its assemblage ensured the popular character of its proceedings. Sir Francis Palgrave observes, that “the mere accidents of locality or separation, of distance or juxtaposition, often produce the most important consequences. By assembling in the open air, the suitors of the hundred and the shire courts retained

an importance which they would have lost had they been confined within the limits of the moot-hall; and it is not too much to assert, that the present political influence of the body of the people is, in great measure, derived from the mode and manner of their meeting. William the Conqueror, by enacting a law like the capitulary of Charlemagne" (which directed a roofed building to be constructed for holding the public *mallum*, and which, whether designedly or not, converted the popular assemblies from conventions of the people into mere courts of justice) "would have more effectually checked the growth of the influence of the English people, than by erecting all the massy dungeon-towers, whose ruins are yet frowning over the land. If instead of causing the men of Kent to assemble on the wide heath of Pennenden, to witness the discussion of his pleas, he had commanded those who were selected and chosen to testify on behalf of the county, to meet in the 'speech-house' of Canterbury, the elections of knights of the shire would now, at this day, be made by a close corporation. The records exist which show that as the suffrage of the borough belonged to the delegated bodies acting on the part of the community, so the choice of the representative of the county, or rather of the county court, belonged to the *magnates* or their delegates, few in number, high in station, and without any commixture of the minor suitors, who continued spectators, until they acquired a deep and general interest in the proceedings of the legislature and in the affairs of the community. They then became loud and active partizans; they were on the

HENRY IV.
1399-1413.

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1399-1413.

spot; they mingled with their superiors; they asserted the same rights; but the 'great, outrageous, and excessive number of people, of small substance and of no value,' would never in the angry words of the statute of 8 Hen. VI. c. 7, 'have pretended to a voice equivalent with the most worthy knights and esquires,' if the English sheriff had been enabled, like the mayor, to close the door upon the unwelcome intruders*."

We are not however satisfied thus to treat the lower order of freemen—the proper commonalty, or landsfolk of the realm,—as in any age properly attendants by mere courtesy, or in only a modern French sense *assistants*, in the popular councils, either of ancient or comparatively modern days. No doubt in times when the higher orders of landed proprietors were consolidating and extending their privileges, and when the lower orders had not been able to elevate themselves proportionally, repeated acquiescence in, or rather submission to dictation, may often have led to a practical disregard of the latter's privileges; and probably but for a fortunate concurrence of circumstances the popular share of the government would, in England as elsewhere, have been in the end utterly abolished. It might by some powerful prince have been treated as summarily as was

* *Rise and Progress of the English Commonwealth*, vol. i, part 1, p. 150. Our preceding reference to this work, so rich in valuable constitutional materials, should have comprized the interesting disquisitions (in chapters iii. x. xvii. of the first volume) on the *legislative* power of the ancient Teutonic assemblies, &c.

the attempt made by the lower order of landholders in Normandy, at the close of the tenth century*, to establish a representative chamber to control the nobles, by sending two deputies from each "*cætus*;"—a plan of proceeding founded no doubt on a general traditionary attachment to popular institutions, and in the spirit of delegation so widely spread over the early constitutional history of all Europe. But at all periods of our history, there is sufficient practical authority to support the principle of popular right here as in almost all the Teutonic communities. The sanction of the commonalty is, in theory at least, constantly assumed; and if barons, magnates, or optimates, found it adviseable to strengthen their resolves by making them bear the form and show of the people's assent, it is difficult to see why the latter, at any time when they found themselves strong enough, should not choose to speak for themselves, as in older times, when property had not created such broad distinctions in society. With the same constitutional right the barons resented the liberties taken with their privileges by kings, and caused their share in legislation to be respected as active and substantial.

Long before the statute which settles that the whole body of the county court are the proper constituents of the representatives of the shire, the same thing might fairly have been assumed from general analogy as well as from the whole tenor of the language and outward forms of actual proceeding, in all matters for which the body of

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1399-1413.

* William of Jumieges, lib. v. cap. li.

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1399-1413.

the county could come together. Earl and churl must have met for common objects; for though considerable deference to his superiors was no doubt shown by the latter, he was certainly reckoned among the freemen of the Anglo-Saxon commonwealth. "*Episcopi, Thaini, Comites, et Villani*," are expressly recorded as forming the witenagemot of the kingdom of Kent, accepting and thereby giving the necessary legal validity to a law issued by Athelstan. "Loandesfolk" is the official version which a charter of 1258 (42 Hen. III.) gives of the *communitas* or commonalty, which was, according to the provisions of Oxford in that year, to be represented by twelve good men chosen to meet the king and the council, to treat of the affairs of the king and kingdom; and too much stress is in every period of our history laid upon the general popular assent for us to allow that it was ever constitutionally correct to regard it as a matter of form, and capable of being assumed or appended by others, as of course, to their own resolutions.

The enquiries now prosecuting into our constitutional antiquities have thrown, and will no doubt continue to throw, great light on the popular elements out of which our parliamentary system was finally moulded. The result will probably be an increasing conviction, that the highest antiquities are to be assigned to our popular delegations for various purposes, both in the shire and borough communities. When it is considered that communities of a permanent character were most naturally formed, and that property soonest became fixt and valuable, in cities and boroughs, it

does not seem probable they should be the least or latest in consideration, and in representation in respect of matters most deeply affecting their interests*.

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1399-1413.

During this reign is also found a decisive authority, probably the earliest on record, for two leading maxims of parliamentary law; namely, that the exclusive privilege of originating money bills is possessed by the commons, and that the king ought not to take notice of matters pending in parliament. The proceeding referred to will be subjoined from the parliamentary roll.

* "That the thanes of the Danish cities or burghs were members of the witenagemot is indisputably proved." Palgrave's *English Commonwealth*, vol. i. part 1, p. 644. In the same work (part 2, p. 425-436) we find some curious illustrations of the supposed introduction of borough representatives under Simon Montfort earl of Leicester, in 1265 (49 Hen. III.) as well of the old hypothesis, that in France the *tiers état* was only introduced into the states general by the policy of Philip le Bel in 1302. Among other interesting French constitutional records we have those of the meetings of the parliament—*colloquium generale*—of the county of Toulouse; and one in particular convened in 1212 by the first Simon de Montfort, then in authority there. In these the presence of the "*burgenses*" and the existence of an established system of delegation are manifest.

7 HEN. IV.—1405.

COUNTY ELECTIONS.

CHAP XV.

The manner of the election of Knights of Shires
for a parliament.

HENRY IV.
1399-1413.

Item, our lord the king, at the grievous complaint of his commons in this present parliament, of the undue election of the knights of counties for the parliament, which be sometime made of affection of sheriffs, and otherwise against the form of the writs directed to the sheriff, to the great slander of the counties and hindrance of the business of the commonalty in the said county: Our sovereign lord the king, willing therein to provide remedy, by the assent of the lords spiritual and temporal and the commons in this present parliament assembled, hath ordained and established;

That from henceforth the elections of such knights shall be made in the form as followeth; (that is to say) at the next county to be holden after the delivery of the writ of the parliament, proclamation shall be made in the full county of the day and place of the parliament, and that all they that be there present, as well suitors duly summoned for the same cause as other, shall attend to the election of the knights for the parliament, and then in the full county they shall proceed to the election freely and indifferently, notwithstanding any request or commandment to the contrary; and after that they be chosen the names of the persons so chosen (be they present or absent) shall be written in an indenture under the seals of all them that did choose them, and tacked to the same writ of the parliament; which indenture, so sealed and tacked, shall be holden for the sheriff's return of the said writ, touching the knights of the shires.

And in the writs of the parliament to be made hereafter, this clause shall be put ; *et electionem tuam in pleno comitatu tuo factam distincte et aperte sub sigillo tuo et sigillis eorum qui electioni illi interfuerint nobis in cancellaria nostra ad diem et locum in brevi contentos certifies indilate.* HENRY IV.
1399-1413.

9 HEN. IV.—1407.

RIGHTS OF THE COMMONS.

RECORD OF ARRANGEMENT AS TO THE RIGHTS
OF THE COMMONS IN MONEY BILLS, AND AS
TO THE KING'S INTERFERENCE.

[Rot. Parl. vol. iii. p. 611.]

Item, Friday the second day of December, which was the last day of the parliament, the commons came before the king and the lords in parliament, and there, by command of the king, a schedule of indemnity touching a certain altercation moved between the lords and commons was read ; and on this it was commanded by our said lord the king that the said schedule should be entered of record in the roll of parliament ; of which schedule the tenor is as follows :

Be it remembered that on Monday the 21st day of November, the king our sovereign lord being in the council-chamber in the abbey of Gloucester, the lords spiritual and temporal for this present parliament assembled being then in his presence, a debate took place among them about the state of the kingdom, and its defence, to resist the malice of the enemies who on every side prepare to molest the said kingdom and its faithful subjects, and how no man can resist this malice, unless, for the

HENRY IV. safeguard and defence of his said kingdom, our sovereign
1399-1413. lord the king has some notable aid and subsidy granted to him in his present parliament. And therefore it was demanded of the said lords by way of question, what aid would be sufficient and requisite in these circumstances?

To which question it was answered by the said lords severally, that considering the necessity of the king on one side, and the poverty of his people on the other, no less aid could be sufficient than one tenth and a half from cities and towns, and one fifteenth and a half from all other lay persons; and besides, to grant a continuance of the subsidy on wool, woolfells, and leather, and of three shillings on the ton (of wine), and twelve pence on the pound (of other merchandize), from Michaelmas next ensuing for two years thenceforth.

Whereupon, by command of our said lord the king, a message was sent to the commons of this parliament, to cause a certain number of their body to come before our said lord the king and the lords, in order to hear and report to their companions what they should be commanded by our said lord the king.

And upon this the said commons sent into the presence of our said lord the king and the said lords twelve of their companions; to whom, by command of our said lord the king, the said question was declared, with the answer by the said lords severally given to it. Which answer it was the pleasure of our said lord the king that they should report to the rest of their fellows, to the end that they might take the shortest course to comply with the intention of the said lords. Which report being thus made to the said commons, they were greatly disturbed at it, saying and asserting it to be much to the prejudice and derogation of their liberties.

And after our said lord the king had heard this, not willing that anything should be done at present, or in time to come, that might anywise turn against the liberty of the estate for which they are come to parliament, nor against the liberties of the said lords, wills and grants, and declares, by the advice and consent of the said lords, as follows; to wit, that it shall be lawful for the lords to debate together in this present parliament, and in every

other for time to come, in the king's absence, concerning the condition of the kingdom and the remedies necessary for it. And in like manner, it shall be lawful for the commons on their part, to debate together concerning the said condition and remedies. Provided always, that neither the lords on their part, nor the commons on theirs, do make any report to our said lord the king of any grant granted by the commons and agreed to by the lords, nor of the communications of the said grant, before that the said lords and commons are of one accord and agreement in this matter, and then in manner and form accustomed, that is to say, by the mouth of the speaker of the said commons for the time being, to the end that the said lords and commons may have what they desire (*avoir puissent leur gree*) of our said lord the king.

HENRY IV.
1399-1413.

Our said lord the king willing moreover, by the consent of the said lords, that the communication had in this present parliament as above be not drawn into precedent in time to come, nor be turned to the prejudice or derogation of the liberty of the estate for which the said commons are now come, neither in this present parliament nor in any other time to come; but wills that himself and all the other estates should be as free as they were before.

Also, the said last day of parliament, the said speaker prayed our said lord the king on the part of the said commons, that he would grant the said commons, that they should depart in as great liberty as other commons had done before. To which the king answered, that this pleased him well, and that at all times it had been his desire.

HENRY THE SIXTH.

1422-1461.

THE reign of Henry the Sixth was an unfortunate one; but some laws were passed in it which are worthy of notice, though the king's legislative fame may not fully answer the early promise he manifested, according to Fabian, in such matters. "Henry the Sixth," he says, "when but eight months old, sat in his mother's lap in the parliament chamber; and the speaker made a famous *preposition*, in which he said much of the providence of God, who had endowed the realm with the presence of SO TOWARD A PRINCE AND SOVEREIGN GOVERNOR."

HENRY VI.
1422-1461.

Acts were passed, regulating matters arising out of the progress of parliament to better organization and more practised constitutional developement. By the 8th of Hen. VI. the forty shilling qualification was required from freeholders; and this last statute received a legislative explanation by the 10th Hen. VI. c. 2, which provides that the voter must have his freehold within the county in which he votes. An act was also passed (23 Hen. VI. chap. 10) for regulating the levying of wages for the knights of parliament; and in the same year was passed the subjoined

HENRY VI.
1422-1461.

statute for regulating elections, which is framed with unusual particularity and solicitude to secure the objects in view.

By the 11th Hen. VI. chap. 11, provision was made "for the ease and tranquillity of them that come to the parliaments and councils of the king by his commandment;" this enactment being in conformity with the spirit of 7 Edw. I. *ante*, page 59.

It may be added that trial by jury received an important protection, in an act passed 18 Hen. VI. chap. 14; which, after reciting the prevalence of corrupt practices on the part of sheriffs and under sheriffs, provides a remedy for the aggrieved, and even empowers the justices to examine the offender himself in any proceeding instituted against him.

8 HEN. VI.—1429.

COUNTY ELECTIONS.

CHAP. VII.

What sort of men shall be choosers, and who shall be chosen Knights of the Parliament.

WHEREAS the elections of knights of shires to come to the parliaments of our lord the King, in many counties of the realm of England, have now of late been made by very great, outrageous, and excessive number of people dwelling within the same counties of the realm of England; of the which most part was of people of small substance and of no value, whereof every of them pretended a voice equivalent, as to such elections to be made, with the most worthy knights and esquires dwelling within the same counties; whereby manslaughter, riots, batteries, and divisions among the gentlemen and other people of the same counties, shall very likely rise and be, unless convenient and due remedy be provided in this behalf; our lord the king, considering the premises, hath provided, ordained, and stablished by authority of this present parliament,

HENRY VI.
1422-1461.

That the knights of the shires to be chosen within the same realm of England to come to the parliaments of our lord the king hereafter to be holden, shall be chosen in every county of the realm of England, by people dwelling and resident in the same counties, whereof every one of them shall have free land or tenement to the value of forty shillings by the year at the least above all charges; and that they which shall be so chose shall be dwelling and resident within the same counties; and such as have the greatest number of them that may expend forty shillings by year and above, as afore is said, shall be returned by the sheriffs of every county knights for the parliament, by indentures sealed betwixt the said sheriffs and the said

Qualification
to be forty
shillings by
the year.

HENRY VI.
1422-1461

choosers so to be made. And every sheriff of the realm of England shall have power by the said authority, to examine upon the evangelists every such chooser, how much he may expend by the year; and if any sheriff return knights to come to the parliament contrary to the said ordinance, the justices of assizes in their sessions of assizes shall have power, by the authority aforesaid, thereof to enquire.

Penalty on
sheriff.

And if by inquest the same be found before the justices, and the sheriff thereof be duly attainted, that then the said sheriff shall incur the pain of an hundred pounds, to be paid to our lord the king; and also that he have imprisonment by a year, without being let to bail or mainprise; and that the knights for the parliament returned contrary to the said ordinance, shall lose their wages.

Provided always, that he which cannot expend forty shillings by year, as afore is said, shall in no wise be chooser of the knights for the parliament; and that in every writ that shall hereafter go forth to the sheriffs to choose knights for the parliament, mention be made of the said ordinances.

23 HEN. VI.—1444.

CHAP. XIV.

Who shall be Knights for the Parliament. The manner of their election. The remedy where one is chosen and another returned.

Whereas by authority of a Parliament holden at Westminster the first year of the reign of King Henry, father to the king that now is, amongst other things it was ordained, that the citizens and burgesses of cities and boroughs coming to the parliament, should be chosen men citizens and burgesses resident, abiding, and free in the same cities and boroughs, and none other, as in the same

statute more fully is contained ; which citizens and burgesses and no other have always in cities and boroughs been chosen by citizens and burgesses and no other, and to the sheriff of the counties returned, and upon their returns received and accepted by the parliaments before this holden :

HENRY VI.
1422-1461.

And also, whereas by authority of a parliament holden at Westminster, the eighth year of the reign of the king that now is, it was ordained in what manner and form the knights of the shires coming to the parliaments from thenceforth to be holden should be chosen, and how the sheriffs of the same counties thereupon should make their returns, as in the same statute more fully appeareth ; by force of which statute elections of knights to come to the parliaments sometimes have been duly made and lawfully returned, until now of late, that divers sheriffs of the counties of the realm of England, for their singular avail and lucre, have not made due elections of the knights, nor in convenient time, nor returned good men and true ; and sometime returned none of the knights, citizens, and burgesses lawfully chosen to come to the parliaments ; but such knights, citizens, and burgesses have been returned which were never duly chosen, and other citizens and burgesses than those which by the mayors and bailiffs were to the said sheriffs returned ; and sometimes the sheriffs have not returned the writs which they had to make election of knights to come to the parliaments, but the said writs have imbesiled ; and moreover made no precept to the mayor and bailiff, or to the bailiffs or bailiff where no mayor is, of cities and boroughs, for the election of citizens and burgesses to come to the parliament, by the colour of these words contained in the same writs—*quod in pleno comitatu tuo eligi facias pro comitatu tuo duos milites, et pro quolibet civitate in comitatu tuo duos cives, et pro quolibet burgo in comitatu tuo duos burgenses* ; and also because sufficient penalty and convenient remedy for the party in such case grieved is not ordained in the said statutes against the sheriff, mayors, and bailiffs, which do contrary to the form of the said statutes : the king considering the premises hath ordained by authority aforesaid,

1. That the said statutes shall be duly kept in all points ; and moreover that every sheriff, after the delivery of any

Precepts to
boroughs.

HENRY VI.
1422-1461.

such writ to him made, shall make and deliver without fraud a sufficient precept under his seal to every mayor and bailiff, or to the bailiffs or bailiff where no mayor is, of the cities and boroughs within his county, reciting the said writ, commanding them by the same precept, to choose, if it be a city, by citizens of the same city, two citizens, and in the same manner and form, if it be a borough, burgesses, to come to the parliament. And that the same mayor and bailiffs, or bailiffs or bailiff where no mayor is, shall return lawfully the precept to the same sheriffs by indentures betwixt the same sheriffs and them to be made of the said elections, and of the names of the said citizens and burgesses by them so chosen, and thereupon every sheriff shall make a good and rightful return of every such writ, and of every return by the mayors and bailiffs, or bailiffs or bailiff where no mayor is, to him made.

Penalty on
sheriff.

And that every sheriff at every time that he doth contrary to this statute, or any other statutes for the election of knights, citizens, and burgesses to come to the parliament before this time made, shall incur the pain contained in the said statute made in the said eighth year; and moreover shall forfeit and pay to every person hereafter chosen knight, citizen, or burgess in his county, to come to any parliament and not duly returned, or to any other person which in default of such knight, citizen, or burgess will sue, an hundred pounds; whereof every knight, citizen, and burgess so grieved, severally, or any other person which in their default will sue, shall have his action of debt against the said sheriff or his executors or administrators, to demand and have the said hundred pounds, with his costs spent in that case. And that in such action taken by virtue of this statute, the defendant shall not wage his law of the demand aforesaid in any wise; and that no defendant in such action shall have any essoin.

Penalty on
mayor, &c.

And in the same manner at every time that any mayor and bailiffs, or bailiffs or bailiff where no mayor is, shall return other than those which be chosen by the citizens and burgesses of the cities or boroughs where such elections be or shall be made, he or they shall incur and forfeit to the king forty pounds; and moreover shall forfeit and

pay to every person hereafter chosen citizen or burgess to come to the parliament and not by the same mayor and bailiff, or bailiffs or bailiff where no mayor is, returned, or to any other person which in default of such citizen or burgess so chosen will sue, forty pounds ; whereof every of the citizens and burgesses so grieved severally, or any other person which in their default will sue, shall have his action of debt against every of the said mayor and bailiffs, or bailiffs or bailiff where no mayor is, against their executors or administrators, to demand and have of every of the said mayors and bailiffs, or bailiffs or bailiff where no mayor is, forty pounds with his costs in this case expended ; and that in such action of debt, taken by force of this statute, no defendant in any wise shall wage his law of the said demand nor have any essoin.

HENRY VI.
1422-1461.

2. And that every sheriff that maketh no due election of knights to come to the parliament in convenient time, that is to say, every sheriff in his full county, betwixt the hour of eight and the hour of eleven before noon, without collusion in this behalf ; and that every sheriff that maketh not good and true return of such elections of knights to come to the parliament in time to come, as to them pertaineth in manner and form aforesaid, shall forfeit to the king an hundred pounds ; and also shall incur the pain of an hundred pounds, to be paid to him that will sue against him, his executors or administrators, for this cause, by way of action of debt, with his costs in this behalf expended, without waging of law of his demand, or having essoin, as afore is said.

Penalty as to
county elec-
tions.

3. Provided always, that every knight, citizen, and burgess to come to any parliament hereafter to be holden, in due form chosen and not returned as afore is said, shall begin his action of debt aforesaid within three months after the same parliament commenced, to proceed in the same suit effectually without fraud ; and if he so do not, another that will sue shall have the said action of debt (as it is before said) and shall recover the same sum with his costs spent in this behalf, in manner and form aforesaid, so that no defendant in such action shall wage his law, nor be essoined in any wise as afore is said. And if any knight, citizen, or burgess, hereafter returned by the

Extension
of right of
action.

HENRY VI.
1422-1461.

sheriff to come to the parliament in the manner aforesaid, after such return, be by any person put out and another put in his place, that such person so put in the place of him which is out, if he take upon him to be knight, citizen, or burgess at any parliament in time to come, shall forfeit to the king an hundred pounds, and an hundred pounds to the knight, citizen, or burgess so returned by the sheriff, and after as afore is said, put out. And that the knight, citizen, or burgess which is so put out shall have an action of debt of the same one hundred pounds against such person put in his place, his executors or administrators ; provided always that he shall begin his suit within three months after the parliament commenced ; and if he do not, then he that will sue shall have an action of debt of the same one hundred pounds against him which is put in place of him that is so put out after such return, his executors or administrators, and that no defendant in such action shall wage his law nor be essoined ; and that such process shall be in the actions aforesaid as in a writ of trespass done against the peace at the common law ; so that the knights of the shires for the parliament hereafter to be chosen, shall be notable knights of the same counties for the which they shall be chosen, or otherwise such notable esquires, gentlemen of the same counties, as shall be able to be knights, and no man to be such knight which standeth in the degree of a yeoman and under.

SUMMARY

OF

NORMAN AND PLANTAGENET LEGISLATION.

HERE end our illustrations of constitutional legislation under the Norman and Plantagenet kings; we have perhaps wandered somewhat too vaguely for the direct purposes of this selection, into subjects more strictly appropriate to the pursuits of the legal antiquarian; but the interesting nature of the pursuit must be our excuse if we have seemed too discursive on these topics, too minute in our instances of political regulation, or too desirous to trace backward the early germs of free institutions. “God forbid,” as our constitutional historian, Mr. Hallam, exclaims, “that our right to a just and free government should be tried by a jury of antiquarians; yet it is a generous pride that intertwines the consciousness of hereditary freedom with the memory of our ancestors.” And if obscurities attend our path of early investigation, we have at least in every stage of our progress the cheering light of liberty, which leads us on our way, ever brightening its beams and widening the sphere of its diffusion, while we constantly see rising around us the spreading columns of our constitutional fabric,

1199-1461.

1199-1461. * durable in its construction and beautiful in its proportions, as the magnificent temples reared during the same age, and still remaining to fill us with admiration of the genius which conceived and the energy which executed such noble works.

We have marked the great principles of practical freedom laid down in John's Charter, and have quoted the vindication, by one of our greatest constitutional writers, of its claims upon the reverence and gratitude of Englishmen; we may now add the eloquent words of another enlightened statesman and philosopher.

"It is observable," says Sir James Mackintosh, "that the language of Magna Charta is simple, brief, general without being abstract, and expressed in terms of authority, not of argument, yet commonly so reasonable as to carry with it the intrinsic evidence of its own fitness. It was understood by the simplest of the unlettered age for whom it was intended;—it was remembered by them;—and though they did not perceive the extensive consequences which might be derived from it, their feelings were, however unconsciously, exalted by its generality and grandeur.

"On the English nation, undoubtedly, the Charter has contributed to bestow the union of establishment with improvement. To all mankind it set the first example of the progress of a great people for centuries, in blending their tumultuary democracy and haughty nobility with a fluctuating and vaguely limited monarchy, so as at length to form from these discordant materials the only form of free government which experience had shown to be reconcileable with widely extended

dominions. Whoever in any future age or unborn nation may admire the felicity of the expedient which converted the power of taxation into the shield of liberty, by which discretionary and secret imprisonment was rendered impracticable, and portions of the people were trained to exercise a larger share of judicial power than was ever allotted to them in any other civilized state, in such a manner as to secure instead of endangering public tranquillity;—whoever exults at the spectacle of enlightened and independent assemblies, who, under the eye of a well-informed nation, discuss and determine the laws and policy likely to make communities great and happy;—whoever is capable of comprehending all the effects of such institutions, with all their possible improvements upon the mind and genius of a people, is sacredly bound to speak with reverential gratitude of the authors of the great charter. To have produced it, to have preserved it, to have matured it, constitute the immortal claim of England on the esteem of mankind*.”

In our progress through the legislation and parliamentary proceedings subsequent to the Great Charter, we have met with no traces of abandonment of the spirit of energy and perseverance in which that great landmark was founded. The course was always progressive, and in a right direction. Whatever occasional infringements were made upon the rights of the people, and however acquiescent they may at times appear under such aggressions, we find the following substantial

* *Hist. of England*, vol. i. p. 221.

1199-1461. restraints of the royal authority indisputably established at the period now reached.

1. The king could levy no sort of new tax upon his people, except by the grant of his parliament, consisting as well of bishops and mitred abbots, or lords spiritual, and of hereditary peers or temporal lords, who sat and voted promiscuously in the same chamber, as of representatives from the freeholders of each county, and from the burgesses of many towns and less considerable places, forming the lower or commons' house. 2. The previous assent and authority of the same assembly was necessary for every new law, whether of a general or temporary nature. 3. No man could be committed to prison but by a legal warrant, specifying his offence; and by an usage nearly tantamount to constitutional right, he must be speedily brought to trial by means of regular sessions of gaol-delivery. 4. The fact of guilt or innocence on a criminal charge was determined in a public court, and in the county where the offence was alleged to have occurred, by a jury of twelve men, from whose unanimous verdict no appeal could be made. 5. Civil rights, so far as they depended on questions of fact, were subject to the same decision. 6. The officers and servants of the crown, violating the personal liberty or other right of the subject, might be sued in an action for damages, to be assessed by a jury, or, in some cases, were liable to criminal process; nor could they plead any warrant or command in their justification, not even the direct order of the king.

HENRY THE SEVENTH.

1485-1509.

HENRY the Seventh (the first of the Tudor princes) reigned by a title essentially parliamentary, it being "ordained, established, and enacted, with the assent of the lords spiritual and temporal and at the request of the commons, by the authority of that parliament, that the inheritance of the crowns of the realms of England and of France, with all the preeminence and dignity royal appertaining to them, should be, rest, remain, and abide in him and the heirs of his body lawfully coming, perpetually, with the grace of God so to endure and in none other." At his accession he found the mixed commonwealth of England firmly established, on foundations rudely assailed at times, but too deeply seated to be permanently endangered. His family occupied the throne during a period in which practical liberty retrograded to a certain extent. Prerogative was thrown into the opposite scale, and the Stuarts, had they been strong or prudent enough, had the inclination to follow the example by making it completely outweigh popular right. The aristocracy, which had formerly restrained the crown, was reduced, and the middle classes of society had not obtained suf-

HENRY VII.
1485-1509.

HENRY VII.
1485-1509.

ficient strength to form an effectual practical control in their stead. Much was done in the interval which it took many years of painful struggle to undo; and we shall not think it necessary to quote many of the enactments which on the one side or the other deeply affected the constitutional interests of England, while the vicissitudes of the conflict were rapidly succeeding each other. There are however a few great landmarks which we must notice; but the best of them will be found to be laws merely restoring or developing the principles which, as far as legal intention could be declared, had for ages been acknowledged as the proper rule of the constitution.

Let us, however, when we witness some of the variances between practice and constitutional precept, again remember, that, if in later days we find, combined with positive law, a practice more uniform and consistent with both its letter and spirit, we owe much of the blessing to the matured influence of public opinion and the diffusion of general knowledge.

We find one general law worthy of extraction passed in this reign, which is commonly spoken of as one of active policy in reducing the power of the aristocracy,—a process we should rather attribute to the necessary changes arising from the progress towards a new stage of society. It is a law just in itself, and politic for a monarch situated as Henry was; it preserves the subject from the danger of incurring the penalties of treason in obeying a king *de facto*.

Will it be foreign to our purpose, in the absence of any other leading enactment, to subjoin

a statute which not only recognizes as a just social principle, that there should be redress of injuries for the [poor as well as the rich, but provides the means of carrying the principle into effect? James the First, in the *Basilicon Doron*, says, his grandfather obtained the honourable title of "the poor man's king;" perhaps this statute forms part of his warranty for the appellation.

HENRY VII.
1485-1509.

11 HEN. VII.—1494.

KINGS DE FACTO.

CHAP. I.

None that shall attend upon the king for the time being and do him true service shall be attainted, or forfeit anything.

HENRY VII.
1485-1509.

THE king our sovereign lord, calling to his remembrance the duty of allegiance of his subjects of this his realm, and that they by reason of the same are bound to serve their prince and sovereign lord for the time being, in his wars, for the defence of him, and the land, against every rebellion, power, and might reared against him, and with him to enter and abide in service in battle if case so require:

And that for the same service, what fortune ever fall by chance in the same battle against the mind and will of the prince (as in this land some time passed hath been seen), that it is not reasonable, but against all laws, reason, and good conscience, that the said subjects, going with their sovereign lord in wars, attending upon him in his person, or being in other places by his commandment, within this land or without, any thing should lose or forfeit for doing their true duty and service of allegiance:

It be therefore ordained, enacted, and established by the king our sovereign lord, by the advice and assent of the lords spiritual and temporal, and the commons, in this present parliament assembled, and by authority of the same, that from henceforth no manner of person or persons, whatsoever he or they be, that attend upon the king and sovereign lord of this land for the time being, in his person, and do him true and faithful service of allegiance in the same, or be in other places by his commandment in his wars, within this land or without, that

for the said deed and true duty of allegiance he or they be in no wise convict or attain of high treason, ne of other offences for that cause, by act of parliament, or otherwise by any process of law, whereby he or any of them shall lose or forfeit life, lands, tenements, rents, possessions, hereditaments, goods, chattels, or any other things; but to be for that deed and service utterly discharged of any vexation, trouble, or loss.

HENRY VII.
1485-1509.

And if any act or acts, or other process of the law hereafter thereupon for the same happen to be made, contrary to this ordinance, that then that act or acts, or other processes of the law, whatsoever they shall be, stand and be utterly void.

Provided alway, that no person or persons shall take any benefit or advantage by this act, which shall hereafter decline from his or their said allegiance.

11 HEN. VII.—1494.

PAUPER SUITS.

CHAP. XII.

A mean to help and speed poor persons in their Suits.

Prayen the commons in this present parliament assembled, that where the king our sovereign lord, of his most gracious disposition, willeth and intendeth indifferent justice to be had and ministered according to his common laws to all his true subjects, as well to the poor as rich, which poor subjects be not of ability ne power to sue according to the laws of this land for the redress of injuries and wrongs to them daily done, as well concerning their

HENRY VII.
1485-1509.

persons and their inheritance as other causes; for remedy whereof, in the behalf of the poor persons of this land, not able to sue for their remedy after the course of the common law, be it ordained and enacted by your highness, and by the lords spiritual and temporal and the commons in this present parliament assembled, and by authority of the same, that every poor person or persons which have or hereafter shall have cause of action or actions against any person or persons within this realm, shall have, by the discretion of the chancellor of this realm for the time being, writ or writs original, and writs of *subpoena*, according to the nature of their causes, therefore nothing paying to your highness for the seals of the same, nor to any person for the writing of the same writ and writs to be hereafter sued; and that the said chancellor for the time being shall assign such of the clerks which shall do and use the making and writing of the same writs to write the same ready to be sealed, and also learned counsel and attornies for the same, without any reward taking therefore.

And after the said writ or writs be returned, if it be afore the king in his bench, the justices there shall assign to the same poor person or persons counsel learned by their discretions, which shall give their counsels, nothing taking for the same. And likewise the justices shall appoint attorney and attornies for the same poor person or persons, and all other officers requisite and necessary to be had for the speed of the said suits to be had and made, which shall do their duties without any reward for their counsels, help, and business in the same: And the same law and order shall be observed and kept of all such suits to be made afore the king's justices of his Common Place and barons of his Exchequer, and all other justices in the courts of record where any such suit shall be.

HENRY THE EIGHTH.

1509-1547.

As little constitutional legislation occurs in the reign of this extraordinary prince,

HEN. VIII.
1509-1547.

“ ————— the majestic lord
Who broke the bonds of Rome,”

as in that of his predecessor. England is no doubt indebted to him for releasing her, in whatever fashion and for whatever motives, from these heavy “bonds;” but the lover of liberty can have no sympathy personally with a bloody tyrant ready to destroy one despotism only to set up another equally arbitrary while it endured. He is grateful for the mercies which arise through the agency of the “avenging minister of Heaven,” without palliating his crimes or feeling other than disgust at his enormities.

In a constitutional point of view, it may be observed that the acts for the suppression of the monasteries were very important, if regarded merely as a great alteration of the proportionate numbers of the spiritual and temporal estates in parliament; the mitred abbeys being abolished. We may with propriety, and certainly in suitable illustration of the daring temper of him who ad-

HEN. VIII.
1509-1547.

ded the spiritual to his political crown, annex the enactment which declared that the kings of England were henceforth SUPREME HEADS OF THE CHURCH.

26 HEN. VIII.—1534.

ACT OF SUPREMACY.

CHAP. I.

The King's Grace to be authorized Supreme Head.

ALBEIT the king's majesty justly and rightfully is and ought to be the supreme head of the church of England, and so is recognized by the clergy of this realm in their convocations, yet nevertheless for corroboration and confirmation thereof, and for increase of virtue in Christ's religion within this realm of England, and to repress and extirp all errors, heresies, and other enormities and abuses heretofore used in the same: Be it enacted by authority of this present parliament, that the king our sovereign lord, his heirs and successors kings of this realm, shall be taken, accepted, and reputed the only supreme head in earth of the church of England, called *Anglicana Ecclesia*; and shall have and enjoy, annexed and united to the imperial crown of this realm, as well the title and style thereof, as all honours, dignities, pre-eminencies, jurisdictions, privileges, authorities, immunities, profits, and commodities, to the said dignity of supreme head of the same church belonging and appertaining.

HEN. VIII.
1509-1547.

And that our said sovereign lord, his heirs and successors kings of this realm, shall have full power and authority from time to time to visit, repress, redress, reform, order, correct, restrain, and amend all such errors, heresies, abuses, offences, contempts, and enormities, whatsoever they be, which by any manner spiritual authority or jurisdiction ought or may lawfully be reformed, repressed, ordered, redressed, corrected, restrained, or amended, most to the pleasure of Almighty God, the increase of virtue in Christ's religion, and for the conserva-

HEN. VIII.
1509-1547.

tion of the peace, unity, and tranquillity of this realm ; any usage, custom, foreign laws, foreign authority, prescription, or any other thing or things to the contrary hereof notwithstanding.

ACT OF SUPREMACY.

CHAP. I.

The King's Grace to be authorized Supreme Head.

HEN. VIII.
1509-1547.

Alas! the king's majesty justly and rightfully is and ought to be the supreme head of the church of England, and so is recognized by the clergy of this realm in their conventions, yet nevertheless for corruption and confirmation thereof, and for increase of virtue in Christ's religion within this realm of England, and to repress and extirp all errors, heresies, and other enormities and abuses heretofore used in the same: He it enacted by authority of this present parliament, that the king our sovereign lord, his heirs and successors kings of this realm, shall be taken, accepted, and reputed the only supreme head in earth of the church of England, called Anglicana Ecclesia; and shall have and enjoy, annexed and united to the imperial crown of this realm, as well the title and style thereof, as all honours, dignities, pre-eminences, jurisdictions, privileges, authorities, immunities, profits, and commodities, to the said dignity of supreme head of the same church belonging and appertaining.

And that our said sovereign lord, his heirs and successors kings of this realm, shall have full power and authority from time to time to visit, repress, redress, reform, order, correct, restrain, and amend all such errors, heresies, abuses, offences, contempts, and enormities, whatsoever they be, which by any manner spiritual authority or jurisdiction ought or may lawfully be reformed, repressed, ordered, redressed, corrected, restrained, or amended, most to the pleasure of Almighty God, the increase of virtue in Christ's religion, and for the conservancy of the peace, unity, and tranquillity of this realm;

EDWARD VI. AND MARY.

1547-1557.

It would have been happy for the memory of Edward the Sixth, and happier for the peace of his successors and their subjects, if we had been able to place the provisions of chap. 12 of the statutes made in the first year of his reign, among the permanent laws for the protection of religious liberty. We shall, however, subjoin the leading provisions of this excellent statute, which adopted the most rational plan of dealing with legislation in matters of religious opinion,—that of sweeping it all away, in as few and comprehensive words as possible. The English reformed church might indeed have enjoyed a pre-eminence to which her early history gives her no just claim, if the principle of this act had been adhered to; if she had been content to build upon the foundation of peace and charity, instead of mixing herself up with the bigotry and intolerance which disgraced the reigns of the Stuarts, and prompted laws that have only in our own days been slowly and reluctantly worn away by the constant action of enlightened argument and remonstrance. The preamble must be understood as quoted only for its curiosity and pompous eloquence.

EDW. VI.
and MARY.
1547-1557.

EDW. VI.
and MARY.
1547-1557.

From one other statute of this reign, 5 and 6 Edw. VI. c. 11, will be taken an important provision, rendering two witnesses necessary to support a conviction of treason.

We shall subjoin the first act of Mary's reign, not only for the purpose of placing in comparison two preambles of a parallel character (in the style of which, however, Mary's law has certainly considerable advantage over Edward's), but because the acts to which they belong curiously illustrate the meekness with which contending sects, when emerging from oppression, assert the evils of intolerance, and the confidence with which they subsequently proceed to similar extremities when firmly seated in authority.

Sir Nicholas Throckmorton, four years after the passing of this most constitutional law, insisted upon it in his defence, but met with no support from the subservient court. The jury, however, were honest, and acquitted the prisoner, who could only have been convicted by a direct violation of the statute.

1 EDW. VI.—1547.

TREASON AND HERESY REPEAL.

CHAP. XII.

An Act for the repeal of certain Statutes, concerning Treasons, [religious Offences], and Felonies.

NOTHING being more godly, more sure, more to be wished and desired betwixt a prince, the supreme head and ruler, and the subjects, whose governor and head he is, than on the prince's part great clemency and indulgency, and rather too much forgiveness and remission of his royal power and just punishment than exact severity and justice to be shewed; and on the subjects' behalf that they should obey rather for love and for the necessity and love of a king and prince, than for fear of his strait and severe laws; yet such times at some time cometh in the commonwealth that it is necessary and expedient for the repressing of the insolency and unruliness of men, and for the foreseeing and providing of remedies against rebellion, insurrection, or such mischiefs as God sometime, with us displeased, for our punishment doth inflict and lay upon us, or the devil at God's permission, to assay the good and God's elect, doth sow and set among us, the which Almighty God, with his help and man's policy, hath always been content and pleased to have staid, that sharp laws, as a harder bridle, should be made to stay those men and facts that might else be occasion, cause, and authors of further inconvenience; the which thing caused the prince of most famous memory King Henry the Eighth, father to our said sovereign lord the king, and other his highness' progenitors, with the assent of the nobles and commons, at divers parliaments in their several times holden, to make and enact certain laws and statutes which might seem and appear to men of exterior realms, and many of the king's majesty's subjects, very strait, sore,

EDW. VI.
1547-1553.

EDW. VI.
1547-1553.

extreme, and terrible, although they were then, when they were made, not without great consideration and policy moved and established, and for the time, to the avoidance of further inconvenience, very expedient and necessary : but as in tempest or winter one course and garment is convenient, in calm or warm weather a more liberal case or lighter garment both may and ought to be followed and used ; so we have seen divers strait and sore laws made in one parliament (the time so requiring) in a more calm and quiet reign of another prince, by the like authority and parliament, repealed and taken away : the which most high clemency and royal example of his majesty's most noble progenitors, the king's highness, of his tender and godly nature, most given to mercy and love of his subjects, willing to follow, and perceiving the hearty and sincere love that his most loving subjects, both the lords and commons, do bear unto his highness now in this his majesty's tender age ; willing also to gratify the same therefore, and minding further to provoke his said subjects with great indulgency and clemency showed on his highness' behalf, to more love and kindness toward his majesty (if it may be) and upon trust that they will not abuse the same, but rather be encouraged thereby more faithfully and with more diligence (if it may be) and care for his majesty, to serve his highness now in this his tender age, is contented and pleased that the severity of certain laws here following be mitigated and remitted.

No offence
made treason
by any sta-
tute shall be
so adjudged,
save, &c.

2. Be it therefore ordained and enacted by the king our sovereign lord, with the assent of the lords spiritual and temporal, and of the commons, in this present parliament assembled, and by the authority of the same, that from henceforth no act, deed, or offence, being by act of parliament or statute made treason or petit treason, by words, writing, ciphering, deeds, or otherwise whatsoever, shall be taken, had, deemed, and adjudged to be high treason or petit treason, but only such as be treason or petit treason in or by the act of parliament or statute made in the five-and-twentieth year of the reign of the most noble king of famous memory, King Edward the Third, touching or concerning treason or the declarations of treasons, and such offences as hereafter shall by this present act be ex-

pressed and declared to be treason or petit treason and none other ; nor that any pains of death, penalty, or forfeiture in any wise ensue or be to any of the offenders for the doing or committing any treason or petit treason, other than such as be in the said statute made in the said twenty-fifth year of the reign of the said King Edward the Third, or by this present statute ordained and provided ; any act or acts of parliament, statute or statutes, had or made at any time heretofore, or after the said twenty-fifth year of the reign of the said late King Edward the Third, or any other declaration or matter, to the contrary in any wise notwithstanding.

EDW. VI.
1547-1553.

3. And also be it further enacted by the authority aforesaid, that ALL ACTS of parliament and statutes touching, mentioning, or IN ANY WISE CONCERNING RELIGION OR OPINIONS, that is to say, as well the statute made in the first year of the reign of the king's noble progenitor King Richard the Second ; and the statute made in the second year of the reign of King Henry the Fifth ; and the statute also made in the twenty-fifth year of the reign of King Henry the Eighth, concerning punishment and reformation of hereticks and lollards, and every provision therein contained ; and the statute made for the abolishment of diversity of opinions in certain articles concerning Christian religion, commonly called the Six Articles, made in the parliament begun at Westminster the twenty-eighth day of April in the one-and-thirtieth year of the reign of the most noble and victorious prince of most famous memory King Henry the Eighth, father of our most dread sovereign lord the king that now is ; and also the act of parliament and statute made in the parliament begun at Westminster the sixteenth day of January in the three-and-thirtieth year of the reign of the said late King Henry the Eighth, and after that prorogued unto the two-and-twentieth day of January in the four-and-thirtieth year of the reign of the said late King Henry the Eighth, touching, mentioning, or in any wise concerning books of the Old and New Testament in English, and the printing, uttering, selling, giving, or delivering of books or writings, and retaining of English books or writings, and reading, preaching, teaching, or expounding of scripture, or in any wise touching, men-

Repeal of all
acts concern-
ing opinions.

EDW. VI.
1547-1553.

tioning, or concerning any of the same matters; and also one other statute made in the parliament holden at Westminster in the five-and-thirtieth year of the reign of the said late King Henry the Eighth, concerning the qualification of the statute of Six Articles; and all and EVERY OTHER ACT or acts of parliament CONCERNING DOCTRINE or matters of religion; and all and every branch, article, sentence, and matter, pains and forfeitures, contained, mentioned, or in any wise declared in any of the same acts of parliament or estatutes, shall from henceforth be repealed and utterly void and of none effect.

Felonies re-
pealed.

4. And be it further ordained and enacted by the authority aforesaid, that all offences made felony by any act or acts of parliament, statute or statutes, made since the twenty-third day of April in the first year of the reign of the said late King Henry the Eighth, not being felony before, and also all and every the branches and articles mentioned or in any wise declared in any of the same statutes concerning the making of any offence or offences to be felony, not being felony before, and all pains and forfeitures concerning the same or any of them, shall from henceforth be repealed, and utterly void and of none effect.

5 and 6 EDW. VI.—1552.

LAW OF TREASON.

CHAP. XI. SECT. 12.

An Act for the punishment of divers kinds of Treasons.

No person
shall be at-
tainted of
treason but

Provided always and be it enacted by the authority aforesaid, that no person or persons after the first day of June next coming, shall be indicted, arraigned, con-

demned, convicted, or attainted for any of the treasons or offences aforesaid, or for any other treasons that now be, or hereafter shall be, which shall hereafter be perpetrated, committed, or done, unless the same offender or offenders be thereof accused by two lawful accusers; which said accusers at the time of the arraignment of the party accused, if they be then living, shall be brought in person before the party so accused, and avow and maintain that that they have to say against the said party, to prove him guilty of the treasons or offences contained in the bill of indictment laid against the party arraigned; unless the said party arraigned shall willingly without violence confess the same. Saving to every person and persons, their heirs and successors, other than the offenders and their heirs, and such person and persons as claim to any their uses, all such rights, titles, interest, possessions, leases, rents, reversions, offices, and other profits which they or any of them shall have at the day of committing such treasons, or at any time after, in as large and ample manner as if this act had never been had nor made.

EDW. VI.
1547-1553.

by two witnesses.

1 MARY.—1553.

REPEAL OF THE REFORMATION ACTS.

SESS. 1. CHAP. I.

An Act repealing and taking away certain Treasons, Felonies, and cases of *Premunire*.

Forasmuch as the state of every king, ruler, and governor of any realm, dominion, or commonalty, standeth and consisteth more assured by the love and favour of the subject toward their sovereign ruler and governor than

MARY.
1553-1558.

in the dread and fear of laws made with rigorous pains and extreme punishment for not obeying of their sovereign ruler and governor ; and laws also justly made for the preservation of the commonweal, without extreme punishment or great penalty, are more often for the most part obeyed and kept than laws and statutes made with great and extreme punishments, and in special such laws and statutes so made, whereby not only the ignorant and rude unlearned people, but also learned and expert people, minding honesty, are often and many times trapped and snared, yea many times for words only, without other fact or deed done or perpetrated :

The queen's most excellent majesty, calling to remembrance that many, as well honourable and noble persons as other of good reputation within this her grace's realm of England, have of late (for words only, without other opinion, fact, or deed,) suffered shameful deaths not accustomed to nobles ; her highness therefore, of her accustomed clemency and mercy, minding to avoid and put away the occasion and cause of like chances hereafter to ensue, trusting her loving subjects will, for her clemency to them showed, love, serve, and obey her grace the more heartily and faithfully, than for dread or fear of pains of body, is contented and pleased that the severity of such like extreme, dangerous, and painful laws shall be abolished, annulled, and made frustrate and void.

Repeal of
treasons, ex-
cept under 25
Edw. III.

2. Be it therefore ordained and enacted by the queen our sovereign lady, with the assent of the lords spiritual and temporal, and of the commons in this present parliament assembled, and by the authority of the same, that from henceforth none act, deed, or offence, being by act of parliament or statute made treason, petty treason, or misprision of treason, by words, writing, ciphering, deeds, or otherwise whatsoever, shall be taken, had, deemed, or adjudged to be high treason, petty treason, or misprision of treason, but only such as be declared and expressed to be treason, petty treason, or misprision of treason in or by the act of parliament or statute made in the twenty-fifth year of the reign of the most noble king of famous memory, King Edward the Third, touching or concerning treason or the declarations of treasons, and none other ;

nor that any pains of death, penalty, or forfeiture in any wise ensue or be to any offender or offenders, for the doing or committing any treason, petty treason, or misprision of treason, other than such as be in the said estatute made in the said twenty-fifth year of the reign of the said King Edward the Third ordained and provided; any act or acts of parliament, statute or statutes, had or made at any time heretofore, or after the said twenty-fifth year of the reign of the said late King Edward the Third, or any other declaration or matter, to the contrary in any wise notwithstanding.

MARY.
1553-1558.

3. Provided always, and be it ordained and enacted by Exceptions. the authority aforesaid, that this act of parliament, or anything therein mentioned, shall not in any wise extend to give any manner of benefit, advantage, or commodity to any person or persons, being the last day of September last past arrested or imprisoned for treason, petty treason, or misprision of treason; or to any person or persons heretofore being indicted of treason, petty treason, or misprision of treason, or being outlawed or attainted of treason, petty treason, or misprision of treason, before the said last day of September last past, or being commanded to keep his or their house or houses, or other men's houses, or otherwise excepted out of the queen's highness most gracious pardon given the day of her coronation: but that they and every of them, for any the offences before mentioned perpetrated, committed, or done by them or any of them, before the said last day of September, shall suffer such pains of death, losses, and forfeitures of lands and goods, as in cases of treason, as though this act had never been had ne made; anything in this act to the contrary in any wise notwithstanding.

4. And be it further ordained and enacted by the authority aforesaid, that all offences made felony, or limited or appointed to be within the case of *premunire*, by any act or acts of parliament, statute or statutes, made sithence the first day of the first year of the reign of the late king of famous memory, King Henry the Eighth, not being felony before, nor within the case of *premunire*; and also all and every branch, article, and clause mentioned or in any wise declared in any of the same estatutes, con- *Premunire repealed.*

MARY.
1553-1558.

cerning the making of any offence or offences to be felony or within the case of *premunire*, not being felony nor within the case of *premunire* before, and all pains and forfeitures concerning the same or any of them, shall from henceforth be repealed, and utterly void and of none effect.

ELIZABETH.

1558-1603.

SCARCELY any great constitutional law can be extracted from the statute book of this reign. It is true that it contains the acts of SUPREMACY and UNIFORMITY, which substantially establish our national church, and "form the basis of that restrictive code of laws, deemed by some one of the fundamental bulwarks, by others the reproach, of our constitution, which pressed so heavily for more than two centuries upon the adherents of the Romish church*." The historian might have added, upon all protestants also, who did not choose to measure points of faith or discipline with the line and compass of the English episcopalian. Both these statutes, independently of the sanction and precedent which they afforded for future aggressions on freedom of conscience, were in several of their provisions (especially taken in their subsequent connection with 5 Eliz. c. 1.) as cruel as any which preceded or followed them. And it cannot be said that the legislature erred in darkness. It sinned against the light of the purest reason and most convincing eloquence, in

ELIZ.
1558-1603.

* Hallam, *Constitutional History*, vol i. p. 120.

ELIZ.
1558-1603.

the speeches delivered by Lord Montagu in the lords and Mr. Atkinson in the commons. From the first commencement of the church's career of intolerance, the noble lord just referred to remonstrated in language as applicable to petty persecutions and political disqualifications as to the severer measures then under discussion. "I do entreat," said he, "whether it be just to make this penal statute to force the subjects of this realm to receive and believe the religion of protestants on pain of death? This I say to be a thing most unjust; for that it is repugnant to the natural liberty of men's understanding. For understanding may be persuaded but not forced." "It is an easy matter to understand that a thing so unjust and so contrary to all reason and liberty of man cannot be put in execution, but with great incommmodity and difficulty. For what man is there, so without courage and stomach, or void of all honour, that can consent or agree to receive an opinion, and new religion, by force and compulsion; or will swear that he thinketh the contrary to what he thinketh? To be still, or dissemble, may be borne and suffered for a time;—to keep his reckoning with God alone;—but to be compelled to lie and swear, or else to die therefore, are things that no man ought to suffer and endure. And it is to be feared that rather than die they will seek how to defend themselves; whereby should ensue the contrary of what every good prince and well advised commonwealth ought to seek and pretend, that is, to keep their kingdom and government in peace." The prophecy was accomplished, not only in the disorders during

Elizabeth's reign, but in the domestic convulsions of the next century. By the position which the established church took, the protestant cause was separated into two essentially differing divisions: the one supported by the state, and including, therefore, on interested grounds, many who were perfectly indifferent to any but political considerations; the other comprising great numbers in particular of the middle orders of society, who were disposed to carry the principles of the reformation to conclusions more accordant with the standard of their consciences than with that of the government. In the assertion of these opinions they were necessarily thrown into opposition to the government, and finally into open collision with it; and thus many, whose habits and principles would probably never have led them into civil insubordination, became eventually, in defence of their religious liberties, the most active supporters of popular resistance to authority of every description.

ELIZ.
1558-1603.

On these subjects no one who feels rightly can be expected to measure or qualify his language. Christianity and an appetite for a neighbour's ruin; the gospel of peace and a passion for burning or otherwise misusing those who refuse assent to the ruling creed, are contrasts which can be reconciled only by the political knave or the besotted bigot. With some misgiving, therefore, as to the ill compliment we may pay the foundation of our religious liberties, by placing their charters side by side with those of our civil rights, we still think it right to subjoin the principal political provisions of two laws, so important in

ELIZ.
1558-1603.

their consequences, leaving the reader to seek in the statute-book the penal provisions which accompany them.

He will, however, be spared the disgust of wading through the disgraceful enactments, which in subsequent days added what many protestants were till very lately not ashamed to call new "pillars of the church." The more pleasing task will be adopted of quoting some of the statutes by which these abominations were piece by piece abolished.

Noticing, as we have sometimes done, laws of great, and especially those of benevolent, influence on social relations, we ought not to exclude from our catalogue some record of the statute which forms the basis of the English poor laws. Whatever may have been the abuses of this code,—for which, however, the original conception does not seem properly answerable,—this great and righteous principle was now permanently established,—that, if the rich take the soil of the land, they take it with the obligation of maintaining their poor and indigent neighbours; and that every man has at least this interest in the wealth and property of the country, that he has a legal right,—as before he had a claim on the score of religion and charity,—to have so much set apart of the abundance around him as is absolutely necessary to his maintenance. We shall with these views subjoin the first section of the "Act for the Relief of the Poor."

1 ELIZ.—1558.

ACT OF SUPREMACY.

CHAP. I.

An Act to restore to the crown the ancient jurisdiction over the Estate Ecclesiastical and Spiritual, and abolishing all foreign powers repugnant to the same.

16. AND to the intent that all usurped and foreign power and authority, spiritual and temporal, may for ever be clearly extinguished and never to be used or obeyed within this realm, or any other your majesty's dominions or countries; may it please your highness that it may be further enacted by the authority aforesaid, that no foreign prince, person, prelate, state, or potentate, spiritual or temporal, shall at any time after the last day of this session of parliament use, enjoy, or exercise any manner of power, jurisdiction, superiority, authority, pre-eminence, or privilege, spiritual or ecclesiastical, within this realm, or within any other your majesty's dominions or countries that now be, or hereafter shall be; but from thenceforth the same shall be clearly abolished out of this realm, and all other your highness' dominions for ever; any statute, ordinance, custom, constitutions, or any other matter or cause whatsoever to the contrary in any wise notwithstanding.

ELIZ.
1558-1603.

The abolishing of foreign authority.

17. And that also it may likewise please your highness that it may be established and enacted by the authority aforesaid, that such jurisdictions, privileges, superiorities, and pre-eminences, spiritual and ecclesiastical, as by any spiritual or ecclesiastical power or authority hath heretofore been or may lawfully be exercised or used for the visitation of the ecclesiastical state and persons, and for reformation, order, and correction of the same, and of

Ecclesiastical jurisdiction annexed to the crown.

ELIZ.
1558-1603.

Power to
constitute
ecclesiasti-
cal commis-
sions.

all manner of errors, heresies, schisms, abuses, offences, contempts, and enormities, shall for ever by authority of this present parliament be united and annexed to the imperial crown of this realm.

18. And that your highness, your heirs and successors kings and queens of this realm, shall have full power and authority by virtue of this act, by letters patents under the great seal of England, to assign, name, and authorize, when and as often as your highness, your heirs or successors, shall think meet and convenient, and for such and so long time as shall please your highness, your heirs or successors, such person or persons, being natural-born subjects to your highness, your heirs or successors, as your majesty your heirs or successors shall think meet, to exercise, use, occupy, and execute under your highness, your heirs and successors, all manner of jurisdictions, privileges, and pre-eminences, in any wise touching or concerning any spiritual or ecclesiastical jurisdiction within these your realms of England and Ireland, or any other your highness' dominions and countries; and to visit, reform, redress, order, correct, and amend all such errors, heresies, schisms, abuses, offences, contempts, and enormities whatsoever, which by any manner of spiritual or ecclesiastical power, authority, or jurisdiction, can or may lawfully be reformed, ordered, redressed, corrected, restrained, or amended, to the pleasure of Almighty God, the increase of virtue, and the conservation of the peace and unity of this realm; and that such person or persons so to be named, assigned, authorized, and appointed by your highness, your heirs or successors, after the said letters patents to him or them made and delivered, as is aforesaid, shall have full power and authority by virtue of this act, and of the said letters patents under your highness, your heirs and successors, to exercise, use, and execute all the premises, according to the tenor and effect of the said letters patents; any matter or cause to the contrary in any wise notwithstanding.

Imposition
of the oath of
supremacy.

19. And for the better observation and maintenance of this act, may it please your highness that it may be further enacted by the authority aforesaid, that all and every archbishop, bishop, and all and every other ecclesiastical

person, and other ecclesiastical officer and minister, of what estate, dignity, pre-eminence, or degree soever he or they be or shall be, and all and every temporal judge, justice, mayor, and other lay or temporal officer and minister, and every other person having your highness' fee or wages within this realm or any your highness' dominions, shall make, take, and receive a corporal oath upon the evangelist, before such person or persons as shall please your highness, your heirs or successors, under the great seal of England to assign and name, to accept and to take the same according to the tenor and effect hereafter following; that is to say,

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1558-1603.

I A. B. do utterly testify and declare in my conscience, that the queen's highness is the only supreme governor of this realm, and of all other her highness' dominions and countries, as well in all spiritual or ecclesiastical things or causes as temporal; and that no foreign prince, person, prelate, state, or potentate hath or ought to have any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within this realm; and therefore I do utterly renounce and forsake all foreign jurisdictions, powers, superiorities, and authorities, and do promise that from henceforth I shall bear faith and true allegiance to the queen's highness, her heirs and lawful successors, and to my power shall assist and defend all jurisdictions, pre-eminences, privileges, and authorities granted or belonging to the queen's highness, her heirs and successors, or united and annexed to the imperial crown of this realm. So help me God, and by the contents of this book.

Form of
oath.

20. And that it may also be enacted, that if any such archbishop, bishop, or any other ecclesiastical officer or minister, or any of the said temporal judges, justiciaries, or other lay officer or minister, shall peremptorily or obstinately refuse to take or receive the said oath, that then he so refusing shall forfeit and lose only during his life all and every ecclesiastical and spiritual promotion, benefice, and office, and every temporal and lay promotion and office, which he hath solely at the time of such refusal made; and that the whole title, interest, and incumbency in every such promotion, benefice, and other office,

Penalty for
refusing the
oath.

ELIZ.
1558-1603.

as against such person only so refusing, during his life, shall clearly cease and be void, as though the party so refusing were dead.

Forfeiture.

21. And that also all and every such person and persons, so refusing to take the said oath, shall immediately after such refusal be from thenceforth, during his life, disabled to retain or exercise any office or other promotion which he at the time of such refusal hath, jointly, or in common with any other person or persons.

Oath to be
taken as qua-
lification.

22. And that all and every person and persons that at any time hereafter shall be preferred, promoted, or collated to any archbishoprick or bishoprick, or to any other spiritual or ecclesiastical benefice, promotion, dignity, office, or ministry, or that shall be by your highness, your heirs or successors, preferred or promoted to any temporal or lay office, ministry, or service within this realm, or in any your highness' dominions, before he or they shall take upon him or them to receive, use, exercise, supply, or occupy any such archbishoprick, bishoprick, promotion, dignity, office, ministry, or service, shall likewise make, take, and receive the said corporal oath before mentioned, upon the evangelist, before such persons as have or shall have authority to admit any such person to any such office, ministry, or service, or else before such person or persons as by your highness, your heirs or successors, by commission under the great seal of England, shall be named, assigned, or appointed to minister the said oath.

No matter of
religion, &c.
made by this
parliament
shall be here-
sy, &c.

35. Provided always, and be it enacted as is aforesaid, that no manner of order, act, or determination for any matter of religion, or cause ecclesiastical, had or made by the authority of this present parliament, shall be accepted, deemed, interpreted, or adjudged at any time hereafter to be any error, heresy, schism, or schismatical opinion; any order, decree, sentence, constitution, or law, whatsoever the same be, to the contrary notwithstanding.

Commissi-
oners may
adjudge he-
resy as war-
ranted by the
scripture, or
the first four
councils.

36. Provided always and be it enacted by the authority aforesaid, that such person or persons to whom your highness, your heirs or successors, shall hereafter by letters patents, under the great seal of England, give authority to have or execute any jurisdiction, power, or authority

spiritual, or to visit, reform, order, or correct any errors, heresies, schisms, abuses, or enormities by virtue of this act, shall not in any wise have authority or power to order, determine, or adjudge any matter or cause to be heresy, but only such as heretofore have been determined, ordered, or adjudged to be heresy, by the authority of the canonical scriptures, or by the first four general councils or any of them, or by any other general council wherein the same was declared heresy by the express and plain words of the said canonical scriptures, or such as hereafter shall be ordered, judged, or determined to be heresy by the high court of parliament of this realm, with the assent of the clergy in their convocation ; anything in this act contained to the contrary notwithstanding.

ELIZ.
1558-1603.

37. And be it further enacted by the authority aforesaid, that no person or persons shall be hereafter indicted or arraigned for any of the offences made, ordained, revived, or adjudged by this act, unless there be two sufficient witnesses or more, to testify and declare the said offences whereof he shall be indicted or arraigned ; and that the said witnesses, or so many of them as shall be living and within this realm at the time of the arraignment of such person so indicted, shall be brought forth in person face to face before the party so arraigned, and there shall testify and declare what they can say against the party so arraigned, if he require the same.

None shall
be indicted
but by two
witnesses.

1 ELIZ.—1558.

ACT OF UNIFORMITY.

CHAP. II.

An Act for the Uniformity of Common Prayer and Service in the Church and Administration of the Sacraments.

ELIZ.
1558-1603.

WHERE at the death of our late sovereign lord King Edward the Sixth there remained one uniform order of common service and prayer, and of the administration of sacraments, rites, and ceremonies in the church of England, which was set forth in one book, intituled, the Book of Common Prayer and Administration of Sacraments, and other rites and ceremonies in the church of England, authorized by act of parliament holden in the fifth and sixth years of our late sovereign lord King Edward the Sixth, intituled, An Act for the uniformity of common prayer and administration of the sacraments; the which was repealed and taken away by act of parliament in the first year of the reign of our late sovereign lady Queen Mary, to the great decay of the due honour of God and discomfort to the professors of the truth of Christ's religion :

The book of
Common
Prayer esta-
blished.

2. Be it therefore enacted by the authority of this present parliament, that the said estatute of repeal and every thing therein contained, only concerning the said book, and the service, administration of the sacraments, rites, and ceremonies, contained or appointed in or by the said book, shall be void and of none effect, from and after the feast of the Nativity of Saint John Baptist next coming; and that the said book, with the order of service, and of the administration of sacraments, rites, and ceremonies, with the alterations and additions therein added and appointed by this estatute, shall stand and be, from and after the said feast of the Nativity of Saint John Baptist, in full

force and effect, according to the tenor and effect of this estatute; anything in the aforesaid estatute of repeal to the contrary notwithstanding.

ELIZ.
1558-1603.

3. And further be it enacted by the queen's highness, with the assent of the lords and commons in this present parliament assembled, and by the authority of the same, that all and singular ministers in any cathedral or parish church or other place within this realm of England and Wales and the marches of the same, or other the queen's dominions, shall, from and after the feast of the Nativity of Saint John Baptist next coming, be bounden to say and use the mattins, even-song, celebration of the Lord's Supper, and administration of each of the sacraments, and all the common and open prayer, in such order and form as is mentioned in the said book, so authorized by parliament in the said fifth and sixth years of the reign of King Edward the Sixth, with one alteration or addition of certain lessons to be used on every Sunday in the year, and the form of the litany altered and corrected, and two sentences only added in the delivery of the sacrament to the communicants and none other or otherwise.

and to be used.

14. And that from and after the said feast of the Nativity of Saint John Baptist next coming, all and every person and persons inhabiting within this realm, or any other the queen's majesty's dominions, shall diligently and faithfully, having no lawful or reasonable excuse to be absent, endeavour themselves to resort to their parish church or chapel accustomed; or upon reasonable let thereof, to some usual place where common prayer and such service of God shall be used in such time of let, upon every Sunday and other days ordained and used to be kept as holy days; and then and there to abide orderly and soberly during the time of the common prayer, preaching, or other service of God there to be used and ministered; upon pain of punishment by the censures of the church, and also upon pain that every person so offending shall forfeit for every such offence twelve pence, to be levied by the churchwardens of the parish where such offence shall be done, to the use of the poor of the same parish, of the goods, lands, and tenements of such offender, by way of distress.

Every person shall resort to the church.

15. And for due execution hereof, the queen's most ex-

ELIZ,
1558-1603.

cellent majesty, the lords temporal, and all the commons in this present parliament assembled, do in God's name earnestly require and charge all the archbishops, bishops, and other ordinaries, that they shall endeavour themselves to the uttermost of their knowledges, that the due and true execution hereof may be had throughout their diocese and charges, as they will answer before God for such evils and plagues wherewith Almighty God may justly punish his people for neglecting this good and wholesome law.

43 ELIZ.—1601.

POOR LAWS.

CHAP. II. SECT. 1.

An Act for the relief of the Poor.

Be it enacted by the authority of this present parliament that the churchwardens of every parish, and four, three, or two substantial householders there, as shall be thought meet, having respect to the proportion and greatness of the same parish and parishes, to be nominated yearly in Easter week, or within one month after Easter, under the hand and seal of two or more justices of the peace in the same county, whereof one to be of the quorum, dwelling in or near the same parish or division where the same parish doth lie, shall be called overseers of the poor of the same parish; and they, or the greater part of them shall take order from time to time, by and with the consent of two or more such justices of peace as is aforesaid, for setting to work the children of all such whose parents shall not by the said churchwardens and overseers, or the greater part of them, be thought able to keep

ELIZ.
1558-1603.

and maintain their children ; and also for setting to work all such persons, married or unmarried, having no means to maintain them, and use no ordinary and daily trade of life to get their living by ; and also to raise weekly or otherwise (by taxation of every inhabitant, parson, vicar, and other, and of every occupier of lands, houses, tithes impropriate, propriations of tithes, coal mines, or saleable underwoods in the said parish, in such competent sum and sums of money as they shall think fit) a convenient stock of flax, hemp, wool, thread, iron, and other necessary ware and stuff to set the poor on work ; and also competent sums of money for and towards the necessary relief of the lame, impotent, old, blind, and such other among them being poor and not able to work, and also for the putting out of such children to be apprentices, to be gathered out of the same parish according to the ability of the same parish, and to do and execute all other things, as well for the disposing of the said stock as otherwise concerning the premises, as to them shall seem convenient.

1478.

and maintain their children; and also for setting to work
the poor persons, married or unmarried, finding no means
to maintain them, and not to rob and daily trade of
life to get their living by; and also to raise a supply of
clothes (by taxation of every inhabitant, person, house,
and other, and of every occupied of lands, houses, fields,
inhabited, gardens, etc. of the said parish, or other
the inhabitants in the said parish, in such proportion
as shall seem of money, as the said parish, or other
what stock of land, house, or other, and other
necessaries were and what to set the poor on work; and
also to provide some of money for and towards the poor-
relief of the said parish, or other, and other, and other
other ways, the said parish, or other, and other, and other
also for the putting out of such children to be apren-
ticed, to be put out of the said parish according to
the ability of the said parish, and to the said parish, or other
other things, as well for the disposing of the said stock
as otherwise concerning the said parish, or other, shall
seem convenient.

JAMES THE FIRST.

1603-1625.

WITH a disposition to maintain and elevate the monarchical authority fully equal to any such inclination displayed by the Tudor princes, the Stuarts, fortunately, united too little prudence and force of character to command success. They betrayed too openly the faithless duplicity which more or less characterized every one of their race, and had to sustain a competition with men and times little suited to the establishment of arbitrary projects.

JAMES I.
1603-1625.

At James's accession there was obviously impending that crisis of conflict between popular right and regal prerogative, which had arisen at one period or another in almost every kingdom of modern Europe, and had nearly every where ended in the supremacy of the monarch and the establishment in practice of the arbitrary doctrines of prerogative.

It has been asked, whence arose the theories and pretensions promulgated by lawyers and churchmen, and finally established on the ruins of popular institutions? The original outline of the constitution of all the Teutonic states was eminently popular—in fact republican. Among

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1603-1625.

all the Teutonic tribes laws could be made, and state measures directed, only under the express assent and control of the community. When in process of time chieftains obtained permanent superiority, they received allegiance only on condition of the reciprocal discharge of the duties of a just lord, and often had little better protection, even for their persons, than a higher rate of weregild. No purely monarchical theory of government could properly arise in these quarters. Whence then did it every where appear?

This interesting question has been profoundly and most judiciously discussed by Mr. Allen in his "Inquiry into the Rise and Growth of the Royal Prerogative in England." He traces the legal theory of monarchical supremacy to the connection between the institutions of the Roman empire and those of the states founded upon its ruins. With Dubos and Savigny he attributes great influence to this connection, which was eminently promoted by the fact that churchmen were long the principal officials. The new kings certainly adopted titles, and assumed, in words at least, attributes, wholly at variance with the real source and extent of their authority. Thus we find barbaric *augusti*, *consuls*, and *patricians*. A Saxon king or *bretwalda*, just emerging from the simple dignity of *heretoga*,—elected to his office by popular voice, incompetent to the slightest legislation without the express assent of the community, and liable to be cashiered without ceremony for incompetency,—pleased himself with the title of *BASILEUS*, and had around him his *clitones* and *palatine officers*.

Following the style and forms of the civilians in the executive functions of government, it is no wonder that kings also adopted their political doctrines; held that the sovereign power and majesty of the state resided in themselves, that everything, even the right to the soil, flowed from them; and in short talked of the authority confided to them in language directly at variance with the limited power they in reality possessed.

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1603-1625.

The reader must be referred to Mr. Allen's valuable pages for a developement of the extent to which Roman notions of sovereignty were thus blended with the widely different, but perfectly plain and undoubted, principles of Teutonic government, and of the mode in which the phantoms borrowed from Imperial Rome became insinuated into the legal forms and language of its conquerors; *divine right* being boldly substituted as the basis of the assumption in place of the fictitious *lex regia* of the civilians.

The result has been a perpetual warfare of opposite principles; and European history is filled with the contradictions and disputes which arose out of the conflict between what may be called the good and evil principles thus let loose; between "forces acting in different directions, and producing, as they have alternately preponderated, an inclination sometimes to liberty, at other times to despotism;" the king long practically remaining, in the midst of all his sounding titles, what the principles of Teutonic government intended him to be, not the ideal monarch of the churchmen and civilians,—an absolute prince, the centre of the power and majesty of the state,—but a ruler limited by law

JAMES I.
1603-1625.

and ancient usage, and often paying with his life for attempts to bring the theories of his flatterers into practice. Even in France, where prerogative was ultimately carried to its full extent; where "*l'etat c'est moi*" was a perfectly just conclusion from the actual state of royal authority, and where the legal maxim "*qui veut le roi, si veut le loi*" was undoubted; we find that, long after Charlemagne and his successors had adopted the titles and many of the attributes of Roman emperors, the practical restraints of the proper Francic constitution were explicitly recognized and submitted to. Charles the Bald, in the *Edict apud Pictas*, A. D. 864, declares broadly "*lex consensu populi fit et constitutione regis*;" and in fact laws framed by the kings, with the advice of their *fideles*, always went to the *mallum* for popular adoption or rejection*.

Notwithstanding the undoubted limitations to royal authority in England, legal language was always considerably perplexed on the subject. Bracton tells us, in one passage, that a king of England "has a superior in the law which made him king, and in his great council;" but he soon yields to the assumption of attributes belonging to the other hypothesis, and tells us in language after King James's own heart, that "all things are under him, and he under no one save God, whose vicar he is."

Under our Tudor princes there was no lack of disposition to give the prerogative theory full practical sway; and it certainly made great pro-

* Palgrave's *English Commonwealth*, vol. i. part ii. 421.

gress. But during the reign of Elizabeth we have abundant evidence that the people were aware of the consequences and disposed in due time to resist them. Elizabeth and her councillors, however, managed such a state of affairs with consummate prudence. They well knew how far it was safe or wise to venture, and the struggle was reserved for less popular successors.

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1603-1625.

James and his family were deeply imbued with the highest theory of kingly supremacy. Their's was the ideal monarch, in whom all the powers of sovereignty were vested; whose person was "adorned with sparkles of the divinity;" the vicergerent of the lord upon earth. Not only the courtiers, but the lawyers and still more the chaplains and even bishops, ministered to this appetite by the high savour of monarchical phraseology, and far-fetched scriptural analogies. Popular rights and privileges, as to the existence and extent of which there could be no reasonable question, were diametrically opposed to the adoption of these principles; and it was in vain that judges and lawyers tried to impose upon the public their distinctions between an ordinary and an extraordinary or absolute prerogative of the crown. "Prerogative," said Sir Edward Coke, then an illustrious exception to the general subserviency of his professional brethren, "prerogative is part of the law; but sovereign power is no parliamentary word. Magna Charta and all our statutes are absolute, without any saving of sovereign power. MAGNA CHARTA IS SUCH A FELLOW THAT HE WILL HAVE NO SOVEREIGN."

Issue was soon joined on the question, whether

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the constitutional or the absolute theory of government was to prevail. The battle had been fortunately deferred till the people were strong enough to secure success to their cause, and the result was the happy establishment of our constitutional commonwealth, founded on the expulsion of a family whom no instruction could improve and no discipline adapt to the government of a free people.

Some curious anomalies still survive in our *legal* views of the royal person and authority. "The ideal king of the lawyers is still apparently and in words a king above law, while the real king of the constitution is a king every where subject to law." The people having made royal prerogative by one device or another bend to the promotion of the great ends of free government, have not quarrelled with legal phraseology, or with fictions which have here lost the power of working mischief; they have been content to see the king's person and authority surrounded by hyperbolical attributes and legal assumptions, which are now harmless, but mark their origin in institutions and principles of government totally different from those of our practical constitution.

To return to our immediate subject, the constitutional proceedings during the reign of James. We may be excused for noticing the bold and remarkable vindication,—rather too long and temporary in its application for insertion,—which so early as the second year after his accession was prepared by a committee at the house's command, and entitled a "Form of Apology and Satisfaction to be delivered to his Majesty," though such may

not be deemed the most appropriate title. It contains a full and pertinent justification of all those proceedings at which James had taken umbrage, and asserts, with respectful boldness, and in explicit language, the constitutional rights and liberties of parliament. If the English monarchy had been reckoned as absolute under the Plantagenets and Tudors as Hume has endeavoured to make it appear, the Commons of 1604 must have made a surprising advance in their notions of freedom since the king's accession. Adverting to what they call the misinformation openly delivered to his majesty in three things; namely, that their privileges were not of right, but of grace only, renewed every parliament on petition; that they are no court of record, nor yet a court that can command view of records; that the examination of the returns of writs for knights and burgesses is without their compass, and belonging to the chancery: assertions, they say, "tending directly and apparently to the utter overthrow of the very fundamental privileges of our house, and therein of the rights and liberties of the whole commons of your realm of England, which they and their ancestors from time immemorial have undoubtedly enjoyed under your majesty's most noble progenitors;" and against which they expressly protest, as derogatory in the highest degree to the true dignity and authority of parliament, desiring "that such their protestation might be recorded to all posterity;" they maintain on the contrary, "1. That their privileges and liberties are their right and inheritance, no less than their very lands and goods; 2. That they cannot

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be withheld from them, denied or impaired, but with the apparent wrong to the whole state of the realm ; 3. That their making request at the beginning of a parliament, to enjoy their privilege, is only an act of manners, and does not weaken their right ; 4. That their house is a court of record, and has been ever so esteemed ; 5. That there is not the highest standing court in this land that ought to enter into competition, either for dignity or authority with this high court of parliament, which, with his majesty's royal assent, gives law to other courts, but from other courts receives neither laws nor orders ; 6. That the house of commons is the sole proper judge of return of all such writs, and the election of all such members, as belong to it, without which the freedom of election were not entire." They aver that in this session the privileges of the house have been more universally and dangerously impugned than ever, as they suppose, since the beginning of parliaments. That in regard to the late queen's sex and age, and much more upon care to avoid all trouble, which by wicked practice might have been drawn to impeach the quiet of his majesty's right in the succession, those actions were then passed over which they hoped in succeeding times to redress and rectify ; whereas, on the contrary, in this parliament, not privileges, but the whole freedom of the parliament and realm had been hewed from them. "What cause," they proceed, "we, your poor commons, have to watch over our privileges is manifest in itself to all men. The prerogatives of princes may easily and do daily grow. The privileges of the subject

are for the most part at an everlasting stand. They may be by good providence and care preserved; but being once lost, are not recovered but with much disquiet." They then enter in detail on the various matters that had arisen during the session,—the business of Goodwin's election, of Shirley's arrest, and some smaller matters of privilege. "We thought not," speaking of the first, "that the judges' opinion, which yet in due place we greatly reverence, being delivered what the common law was, which extends only to inferior and standing courts, ought to bring any prejudice to this high court of parliament, whose power being above the law is not founded on the common law, but have their rights and privileges peculiar to themselves." They vindicate their endeavour to obtain redress of religious and public grievances: "your majesty would be misinformed," they tell him, "if any man should deliver that the kings of England have any absolute power in themselves, either to alter religion, which God defend should be in the power of any mortal man whatsoever, or to make any laws concerning the same, otherwise than as in temporal causes by consent of parliament. We have and shall at all times by our oaths acknowledge, that your majesty is sovereign lord and supreme governor in both*." Such was the voice of the English com-

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* Parl. Hist. 1030, from Petyt's *Jus Parliamentarium*, the earliest book where this important document is preserved. The entry on the Journals, p. 243, contains only the first paragraph. Hume and Carte have been ignorant of it. It is just alluded to by Rapin.

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mons in 1664, at the commencement of that great conflict for their liberties which is measured by the line of the house of Stuart *. This vindication was virtually the outbreak of the contest which ended in the undisputed establishment of the "Bill of Rights."

We find no law worthy of extraction during the reign of James—*princeps omnium quotquot sunt, fuerunt, aut erunt, nisi fallunt fata, longè maximus, et, velint nolint, omnium optimus,*" to borrow the language of his worthy panegyrist Thomas Ross. But the protestation of the commons of 18th December, 1621, deserves to rank among our most important constitutional documents; not merely as illustrative of the spirit of the times, but on account of the immense value of the practical consequences flowing from the establishment of the principles it involves. There are few evils, actual or in prospect, which the existence of a deliberative body, enjoying freedom of debate, is not alone sufficient to control, even if the means of full redress are wanting. The king felt the force of the power he was so anxious to destroy, when he dignified the instrument asserting it, by his personal erasure of that document from the Journals.

* Hallam's *Constitutional Hist.* vol. i. p. 329.

19 JAMES I.

PROTESTATION FOR FREEDOM OF DEBATE.

[Commons Journals, 18th December, 1621.]

THE commons now assembled in parliament, being justly occasioned thereunto, concerning sundry liberties, franchises, privileges, and jurisdictions of parliament, amongst others not herein mentioned, do make this protestation following:—That the liberties, franchises, privileges, and jurisdictions of parliament are the ancient and undoubted birthright and inheritance of the subjects of England; and that the arduous and urgent affairs concerning the king, state, and the defence of the realm, and of the church of England, and the making and maintenance of laws, and redress of mischiefs and grievances which daily happen within this realm, are proper subjects and matter of counsel and debate in parliament; and that in the handling and proceeding of those businesses, every member of the house hath, and of right ought to have, freedom of speech to propound, treat, reason, and bring to conclusion the same: that the commons in parliament have like liberty and freedom to treat of those matters, in such order as in their judgements shall seem fittest; and that every such member of the said house hath like freedom from all impeachment, imprisonment, and molestation (other than by the censure of the house itself), for or concerning any bill, speaking, reasoning, or declaring of any matter or matters touching the parliament or parliament business; and that if any of the said members be complained of, and questioned for any thing done in parliament, the same is to be showed to the king, by the advice and assent of all the commons assembled in parliament, before the king give credence to any private information.

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19 JANUARY

PROTESTATION FOR FREEDOM OF DEBATE

[Continued from page 176]

The Commons now assembled in parliament being
 lawfully summoned thereto, considering sundry petitions,
 remonstrances, privileges, and petitions of parliament,
 amongst others not herein mentioned, do hereby the pro-
 testation following:—That the liberties, franchises, rights,
 laws, and just customs of parliament are the ancient and
 undoubted birthright and inheritance of the subjects of
 England; and that the freedom of debate in that house
 cannot be taken away, nor the freedom of the speech
 of the members of parliament, and the undoubted freedom
 of their words and actions in debate, and otherwise
 fully appear within this realm, are proper subjects
 matter of counsel and debate in parliament; and that in
 the handling and processing of those business, every
 member of the house hath, and of right ought to have,
 freedom of speech to propose, say, reason, and debate
 concerning the same; that freedom of speech in parliament
 the liberty and freedom to each of those members, in each
 order as in their petitions shall seem best; and that
 every member of the said house hath the freedom
 from all impeachment, imprisonment, and molestation
 other than by the course of the laws itself, for or con-
 cerning any bill, petition, resolution, or declaration, or any
 matter or business touching the parliament or parliament
 business; and that if any of the said members be impeach-
 ed of, and questioned for any thing done in parlia-
 ment, the same is to be shewed to the house by the relation
 and assent of all the commons assembled in parliament,
 before the king's highness or any private indignation

CHARLES THE FIRST.

1625-1649.

THE arduous struggle, which in its progress first expelled, then restored, and at length removed as incurable, the direct line of the Stuarts, forms one great constitutional movement,—the practical proof of the deep hold which the love of liberty had taken of the English mind. This is not a suitable occasion for dwelling on the history of such events, for weighing the excesses of either side, or for enquiring how far the people dealt more rigorously than safety required, with men whom it was plain no law but that of force could restrain from sacrificing the welfare and liberties of their fellow-countrymen to their own interests, and from the gratification of their selfish pride by the humiliation and servitude of mankind. It is enough to chronicle in our register the results of the progress of our commonwealth's developement; and in so doing, it will suffice here to quote that summary by Lord Chatham, which has received the approbation of some of our greatest constitutional authorities :—"there was ambition ; there was sedition ; there was violence ; but no man shall persuade me that it was not the cause of liberty on the one side, and of tyranny on the other."

CHARLES I.
1625-1649.

CHARLES I.
1625-1649.

There will be subjoined the "Petition of Right," and three of the memorable acts of the long parliament; in addition to which was passed one for triennial parliaments, which need not be quoted, as it was repealed by the 16th of Charles II. c. 1. The reader will observe that, after all, these statutes do little more than lead him back to what constituted the principles of the commonwealth under the Plantagenets; the high commission court having arisen in later times, out of the ecclesiastical assumptions of the crown, on its clothing itself with spiritual supremacy at the reformation.

3 CAR. I.—1627.

PETITION OF RIGHT.

THE petition exhibited to his majesty by the lords spiritual and temporal and commons in this present parliament assembled, concerning divers rights and liberties of the subject, with the king's majesty's royal answer thereunto in full parliament.

CHARLES I.
1625-1649.

To the King's most excellent majesty.

Humbly show unto our sovereign lord the king, the lords spiritual and temporal and commons in parliament assembled, that whereas it is declared and enacted by a statute made in the time of the reign of King Edward the First, commonly called *Statutum de tallagio non concedendo*, that no tallage or aid shall be laid or levied by the king or his heirs in this realm, without the good will and assent of the archbishops, bishops, earls, barons, knights, burgesses, and other the freemen of the commonalty of this realm; and by authority of parliament holden in the five-and-twentieth year of the reign of King Edward the Third it is declared and enacted that from thenceforth no person should be compelled to make any loans to the king against his will, because such loans were against reason and the franchise of the land; and by other laws of this realm it is provided that none should be charged by any charge or imposition called a benevolence, nor by such like charge; by which the statutes before mentioned and other the good laws and statutes of this realm, your subjects have inherited this freedom, that they should not be compelled to contribute to any tax, tallage, aid, or other like charge not set by common consent in parliament:

2. Yet, nevertheless, of late divers commissions directed to sundry commissioners in several counties, with instructions, have issued; by means whereof your people have been in divers places assembled, and required to lend

CHARLES I. ^{1625-1649.} certain sums of money unto your majesty, and many of them, upon their refusal so to do, have had an oath administered unto them not warrantable by the laws or statutes of this realm, and have been constrained to become bound to make appearance and give attendance before your privy council and in other places, and others of them have been therefore imprisoned, confined, and sundry other ways molested and disquieted ; and divers other charges have been laid and levied upon your people in several counties by lord lieutenants, deputy lieutenants, commissioners for musters, justices of peace, and others, by command or direction from your majesty, or your privy council, against the laws and free customs of the realm :

3. And where also by the statute called the Great Charter of the Liberties of England it is declared and enacted that no freeman may be taken or imprisoned, or be disseised of his freehold or liberties, or his free customs, or be outlawed or exiled, or in any manner destroyed, but by the lawful judgement of his peers, or by the law of the land :

4. And in the eight-and-twentieth year of the reign of King Edward the Third it was declared and enacted by authority of parliament, that no man of what estate or condition that he be, should be put out of his land or tene-ments, nor taken, nor imprisoned, nor disherited, nor put to death, without being brought to answer by due process of law :

5. Nevertheless, against the tenor of the said statutes, and other the good laws and statutes of your realm to that end provided, divers of your subjects have of late been imprisoned without any cause showed ; and when for their deliverance they were brought before your justices by your majesty's writs of *Habeas corpus*, there to undergo and receive as the court should order, and their keepers commanded to certify the causes of their detainer, no cause was certified, but that they were detained by your majesty's special command, signified by the lords of your privy council, and yet were returned back to several prisons without being charged with anything to which they might make answer according to the law :

6. And whereas of late great companies of soldiers

and mariners have been dispersed into divers counties of the realm, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourn, against the laws and customs of this realm, and to the great grievance and vexation of the people :

CHARLES I.
1625-1649.

7. And whereas also by authority of parliament, in the five-and-twentieth year of the reign of King Edward the Third, it is declared and enacted that no man should be forjudged of life or limb against the form of the Great Charter and the law of the land ; and by the said Great Charter and other the laws and statutes of this your realm no man ought to be adjudged to death but by the laws established in this your realm, either by the customs of the same realm or by acts of parliament ; and whereas no offender of what kind soever is exempted from the proceedings to be used and punishments to be inflicted by the laws and statutes of this your realm ; nevertheless of late time divers commissions under your majesty's great seal have issued forth, by which certain persons have been assigned and appointed commissioners, with power and authority to proceed within the land according to the justice of martial law, against such soldiers or mariners, or other dissolute persons joining with them, as should commit any murther, robbery, felony, mutiny, or other outrage or misdemeanor whatsoever, and by such summary course and order as is agreeable to martial law, and as is used in armies in time of war, to proceed to the trial and condemnation of such offenders, and them to cause to be executed and put to death according to the law martial :

8. By pretext whereof some of your majesty's subjects have been by some of the said commissioners put to death, when and where, if by the laws and statutes of the land they had deserved death, by the same laws and statutes also they might, and by no other ought to have been judged and executed :

9. And also sundry grievous offenders, by colour thereof claiming an exemption, have escaped the punishments due to them by the laws and statutes of this your realm, by reason that divers of your officers and ministers of justice have unjustly refused or forborne to proceed against such

CHARLES I. offenders according to the same laws and statutes, upon
 1625-1649. pretence that the said offenders were punishable only by martial law, and by authority of such commissions as aforesaid; which commissions, and all other of like nature, are wholly and directly contrary to the said laws and statutes of this your realm:

Prayer.

10. They do therefore humbly pray your most excellent majesty, that no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such-like charge, without common consent by act of parliament; and that none be called to make answer or take such oath, or to give attendance, or be confined, or otherwise molested or disquieted concerning the same or for refusal thereof; and that no freeman, in any such manner as is before mentioned, be imprisoned or detained; and that your majesty would be pleased to remove the said soldiers and mariners, and that your people may not be so burthened in time to come; and that the aforesaid commissions for proceeding by martial law may be revoked and annulled; and that hereafter no commissions of like nature may issue forth to any person or persons whatsoever to be executed as aforesaid, lest by colour of them any of your majesty's subjects be destroyed or put to death contrary to the laws and franchise of the land.

11. All which they most humbly pray of your most excellent majesty as their rights and liberties, according to the laws and statutes of this realm; and that your majesty would also vouchsafe to declare that the awards, doings, and proceedings to the prejudice of your people in any of the premises shall not be drawn hereafter into consequence or example. And that your majesty would be also graciously pleased, for the further comfort and safety of your people, to declare your royal will and pleasure, that in the things aforesaid all your officers and ministers shall serve you according to the laws and statutes of this realm, as they tender the honour of your majesty and the prosperity of this kingdom.

Assent.

Qua quidem petitione lecta et plenius intellecta per dictum dominum regem, taliter est responsum in pleno parlamento, viz. SOIT DROIT FAIT COME EST DESIRE.

16 CAR. I.—1640.

STAR-CHAMBER ABOLITION ACT.

CHAP. X.

An Act for the Regulating of the Privy Council,
and for taking away the Court commonly called
the Star-Chamber.

Whereas by the Great Charter many times confirmed CHARLES I.
1625-1649.
in parliament, it is enacted that no freeman shall be taken
or imprisoned, or disseised of his freehold or liberties, or
free customs, or be outlawed or exiled, or otherwise de-
stroyed, and that the king will not pass upon him, or con-
demn him, but by lawful judgement of his peers, or by
the law of the land :

And by another statute, made in the fifth year of the
reign of King Edward the Third, it is enacted that no man
shall be attached by any accusation, nor forjudged of
life or limb, nor his lands, tenements, goods, nor chattels
seized into the king's hands, against the form of the Great
Charter and the law of the land :

And by another statute, made in the five-and-twentieth
year of the reign of the same King Edward the Third, it
is accorded, assented, and established that none shall be
taken by petition or suggestion made to the king or to
his council, unless it be by indictment or presentment of
good and lawful people of the same neighbourhood where
such deeds be done, in due manner or by process made by
writ original at the common law ; and that none be put
out of his franchise or freehold, unless he be duly brought
in to answer, and forjudged of the same by the course of
the law, and if anything be done against the same, it shall
be redressed and holden for none :

And by another statute made in the eight-and-twentieth
year of the reign of the same King Edward the Third, it
is amongst other things enacted, that no man of what

CHARLES I. estate or condition soever he be, shall be put out of his lands
1625-1649. or tenements, nor taken, nor imprisoned, nor disinherited,
without being brought in to answer by due process of law :

And by another statute, made in the two-and-fortieth year of the reign of the said King Edward the Third, it is enacted that no man be put to answer without presentment before justices on matter of record, or by due process and writ original, according to the old law of the land, and if anything be done to the contrary, it shall be void in law and holden for error :

And by another statute, made in the six-and-thirtieth year of the same King Edward the Third, it is amongst other things enacted, that all pleas which shall be pleaded in any courts before any the king's justices, or in his other places, or before any of his other ministers, or in the courts and places of any other lords within the realm, shall be entered and enrolled in latin :

And whereas, by the statute made in the third year of King Henry the Seventh, power is given to the chancellor, the lord treasurer of England for the time being, and the keeper of the king's privy seal, or two of them, calling unto them a bishop and a temporal lord of the king's most honourable council and the two chief justices of the King's Bench and Common Pleas for the time being, or other two justices in their absence, to proceed as in that act is expressed, for the punishment of some particular offences therein mentioned :

And by the statute made in the one-and-twentieth year of King Henry the Eighth, the president of the council is associated to join with the lord chancellor and other judges in the said statute of the third of Henry the Seventh mentioned ; but the said judges have not kept themselves to the points limited by the said statute, but have undertaken to punish where no law doth warrant, and to make decrees for things having no such authority, and to inflict heavier punishments than by any law is warranted :

And forasmuch as all matters examinable or determinable before the said judges, or in the court commonly called the Star-chamber, may have their proper remedy and redress and their due punishment and correction by the common law of the land and in the ordinary course

of justice elsewhere; and forasmuch as the reasons and motives inducing the erection and continuance of that court do now cease; and the proceedings, censures, and decrees of that court have by experience been found to be an intolerable burthen to the subjects and the means to introduce an arbitrary power and government; and forasmuch as the council-table hath of late times assumed unto itself a power to intermeddle in civil causes and matters only of private interest between party and party, and have adventured to determine of the estates and liberties of the subject, contrary to the law of the land and the rights and privileges of the subject, by which great and manifold mischiefs and inconveniencies have arisen and happened, and much uncertainty by means of such proceedings hath been conceived concerning men's rights and estates; for settling whereof, and preventing the like in time to come,

CHARLES I.
1625-1649.

Be it ordained and enacted by the authority of this present parliament, that the said court commonly called the Star-chamber, and all jurisdiction, power, and authority belonging unto or exercised in the same court, or by any the judges, officers, or ministers thereof, be, from the first day of August in the year of our Lord God one thousand six hundred forty and one, clearly and absolutely dissolved taken away and determined; and that from the said first day of August neither the lord chancellor or keeper of the great seal of England, the lord treasurer of England, the keeper of the king's privy seal, or president of the council, nor any bishop, temporal lord, privy councillor, or judge or justice whatsoever, shall have any power or authority to hear, examine, or determine any matter or thing whatsoever in the said court commonly called the Star-chamber, or to make, pronounce, or deliver any judgement, sentence, order, or decree, or to do any judicial or ministerial act in the said court. And that all and every act and acts of parliament, and all and every article, clause, and sentence in them and every of them, by which any jurisdiction, power, or authority is given, limited, or appointed unto the said court commonly called the Star-chamber, or unto all or any the judges, officers, or ministers thereof, or for any proceedings to be had or made in the

Star-chamber abolished.

CHARLES I. ^{1625-1649.} said court, or for any matter or thing to be drawn into question, examined, or determined there, shall, for so much as concerneth the said court of Star-chamber, and the power and authority thereby given unto it, be from the said first day of August repealed and absolutely revoked and made void.

Jurisdiction
of privy
council re-
strained.

5. Be it likewise declared and enacted by authority of this present parliament, that neither his majesty nor his privy council have or ought to have any jurisdiction, power, or authority by English bill, petition, articles, libel, or any other arbitrary way whatsoever, to examine or draw into question, determine, or dispose of the lands, tenements, hereditaments, goods, or chattels of any the subjects of this kingdom; but that the same ought to be tried and determined in the ordinary courts of justice and by the ordinary course of the law.

16 CAR. I.—1640.

HIGH COMMISSION COURT ABOLITION ACT.

CHAP. XI.

Repeal of the Branch of a Statute *primo Elizabethæ*, concerning Commissioners for Causes Ecclesiastical.

Whereas in the parliament holden in the first year of the reign of the late Queen Elizabeth, late queen of England, there was an act made and established, intituled, An Act restoring to the crown the ancient jurisdiction over the state ecclesiastical and spiritual, and abolishing all foreign power repugnant to the same; in which act amongst other things there is contained one clause, branch, article, or sentence, whereby it was enacted to this effect;

namely, that the said late queen's highness, her heirs and successors, kings or queens of this realm, should have full power and authority by virtue of that act, by letters patents under the great seal of England, to assign, name, and authorize, when and as often as her highness, her heirs or successors, should think meet and convenient, and for such and so long time as should please her highness, her heirs or successors, such person or persons being natural born subjects to her highness, her heirs or successors, as her majesty, her heirs or successors, should think meet, to exercise, use, occupy, and execute under her highness, her heirs and successors, all manner of jurisdictions, privileges, and preheminance in any wise touching or concerning any spiritual or ecclesiastical jurisdiction within these her realms of England and Ireland, or any other her highness' dominions and countries, and to visit, reform, redress, order, correct, and amend all such errors, heresies, schisms, abuses, offences, contempts, and enormities whatsoever, which by any manner of spiritual or ecclesiastical power, authority, or jurisdiction can or may lawfully be reformed, ordered, redressed, corrected, restrained, or amended, to the pleasure of Almighty God, the increase of virtue, and the conservation of the peace and unity of this realm; and that such person or persons so to be named, assigned, authorized, and appointed by her highness, her heirs or successors, after the said letters patents to him or them made and delivered as aforesaid, should have full power and authority, by virtue of that act and of the said letters patents, under her highness, her heirs or successors, to exercise, use, and execute all the premises, according to the tenor and effect of the said letters patents; any matter or cause to the contrary in any wise notwithstanding.

CHARLES I.
1625-1649.

2. And whereas by colour of some words in the aforesaid branch of the said act, whereby commissioners are authorized to execute their commission according to the tenor and effect of the king's letters patents, and by letters patents grounded thereupon, the said commissioners have, to the great and insufferable wrong and oppression of the king's subjects, used to fine and imprison them, and to exercise other authority not belonging to ecclesiastical

High Com-
mission
court.

CHARLES I. jurisdiction, restored by that act ; and divers other great
 1625-1649. mischiefs and inconveniencies have also ensued to the
 king's subjects, by occasion of the said branch and com-
 missions issued thereupon, and the executions thereof :
 therefore, for the repressing and preventing of the foresaid
 abuses, mischiefs, and inconveniencies in time to come,

Branch of 1
 Eliz. c. 1. re-
 pealed.

3. Be it enacted by the king's most excellent majesty,
 and the lords and commons in this present parliament
 assembled and by the authority of the same, that the fore-
 said branch, clause, article, or sentence contained in the
 said act, and every word, matter, and thing contained in
 that branch, clause, article, or sentence, shall from hence-
 forth be repealed, annulled, revoked, annihilated, and ut-
 terly made void for ever ; anything in the said act to the
 contrary in any wise notwithstanding.

Power taken
 away from
 archbishops,
 &c.

4. And be it also enacted by the authority aforesaid,
 that no archbishop, bishop, nor vicar general, nor any
 chancellor, official, nor commissary of any archbishop,
 bishop, or vicar general, nor any ordinary whatsoever,
 nor any other spiritual or ecclesiastical judge, officer, or
 minister of justice, nor any other person or persons
 whatsoever exercising spiritual or ecclesiastical power,
 authority, or jurisdiction by any grant, licence, or com-
 mission of the king's majesty, his heirs or successors,
 or by any power or authority derived from the king,
 his heirs or successors, or otherwise, shall from and
 after the first day of August which shall be in the year of
 our Lord God one thousand six hundred forty and one,
 award, impose, or inflict any pain, penalty, fine, amer-
 ciament, imprisonment, or other corporal punishment
 upon any of the king's subjects, for any contempt, mis-
 demeanor, crime, offence, matter, or thing whatsoever, be-
 longing to spiritual or ecclesiastical cognizance or juris-
 diction ; or shall *ex officio*, or at the instance or promotion
 of any other person whatsoever, urge, enforce, tender,
 give, or minister unto any churchwarden, side-man, or
 other person whatsoever, any corporal oath whereby he
 or she shall or may be charged or obliged to make any
 presentment of any crime or offence, or to confess or to
 accuse himself or herself of any crime, offence, delin-
 quency, or misdemeanor, or any neglect, matter, or thing

whereby or by reason whereof he or she shall or may be liable or exposed to any censure, pain, penalty, or punishment whatsoever; upon pain and penalty that every person who shall offend contrary to this statute shall forfeit and pay treble damages to every person thereby grieved, and the sum of one hundred pounds to him or them who shall first demand and sue for the same; which said treble damages and sum of one hundred pounds shall and may be demanded and recovered by action of debt, bill, or plaint in any court of record, wherein no privilege, essoin, protection, or wager of law shall be admitted or allowed to the defendant. And be it further enacted, that every person who shall be once convicted of any act or offence prohibited by this statute shall for such act or offence be, from and after such conviction, utterly disabled to be or continue in any office or employment in any court of justice whatsoever, or to exercise or execute any power, authority, or jurisdiction by force of any commission or letters patents of the king, his heirs or successors.

CHARLES I.
1625-1649.

Penalty.

5. And be it further enacted, that from and after the said first day of August, no new court shall be erected, ordained, or appointed within this realm of England or dominion of Wales, which shall or may have the like power, jurisdiction, or authority as the said high commission court now hath or pretendeth to have; but that all and every such letters patents, commissions, and grants made or to be made by his majesty, his heirs or successors, and all powers and authorities granted, or pretended or mentioned to be granted, thereby, and all acts, sentences, and decrees to be made by virtue or colour thereof, shall be utterly void and of none effect.

No new court
to be erected.

16 CAR. I.—1640.

SHIP-MONEY ACT.

CHAP. XIV.

An Act for the declaring unlawful and void the late proceedings touching Ship-Money, and for the vacating of all Records and Process concerning the same.

CHARLES I.
1625-1649.

Ship-writs,
certioraries,
mittimus,
scire facias,
against John
Hampden.

Whereas divers writs of late time issued under the great seal of England, commonly called ship-writs, for the charging of the ports, towns, cities, boroughs, and counties of this realm respectively to provide and furnish certain ships for his majesty's service: and whereas upon the execution of the same writs and returns of *certioraries* thereupon made, and the sending the same by *mittimus* into the court of Exchequer, process hath been thence made against sundry persons pretended to be charged by way of contribution for the making up of certain sums assessed for the providing of the said ships; and in especial, in Easter term in the thirteenth year of the reign of our sovereign lord the King that now is, a writ of *scire facias* was awarded out of the court of Exchequer, to the then sheriff of Buckinghamshire, against John Hampden, esquire, to appear and show cause why he should not be charged with a certain sum so assessed upon him; upon whose appearance and demurrer to the proceedings therein, the barons of the Exchequer adjourned the same case into the Exchequer Chamber, where it was solemnly argued divers days, and at length it was there agreed by the greater part of all the justices of the courts of King's Bench and Common Pleas and of the barons of the Exchequer there assembled, that the said John Hampden should be charged with the said sum so as aforesaid assessed on him; the main grounds and reasons of the said justices and barons

which so agree, being, that when the good and safety of the kingdom in general is concerned, and the whole kingdom in danger, the king might, by writ under the great seal of England, command all the subjects of this his kingdom, at their charge, to provide and furnish such number of ships with men, victuals, and munition, and for such time as the king should think fit, for the defence and safeguard of the kingdom from such danger and peril; And that by law the king might compel the doing thereof, in case of refusal or refractoriness; And that the king is the sole judge, both of the danger and when and how the same is to be prevented and avoided. According to which grounds and reasons all the justices of the said courts of King's Bench and Common Pleas, and the said barons of the Exchequer, having been formerly consulted with by his majesty's command, had set their hands to an extrajudicial opinion expressed to the same purpose; Which opinion, with their names thereunto, was also by his majesty's command inrolled in the courts of Chancery, King's Bench, Common Pleas, and Exchequer, and likewise entred among the remembrances of the court of Star-chamber; And according to the said agreement of the said justices and barons, judgment was given by the barons of the Exchequer that the said John Hampden should be charged with the said sum so assessed on him. And whereas some other actions and process depend and have depended in the said court of Exchequer, and in some other courts, against other persons for the like kind of charge, grounded upon the said writs, commonly called ship-writs, all which writs and proceedings as aforesaid were utterly against the law of the land:

2. Be it therefore declared and enacted by the king's most excellent majesty, and the lords and commons in this present parliament assembled, and by the authority of the same, that the said charge imposed upon the subject for the providing and furnishing of ships, commonly called ship-money, and the said extrajudicial opinion of the said justices and barons and the said writs and every of them, and the said agreement or opinion of the greater part of the said justices and barons, and the said judgment given against the said John Hampden, were and are

CHARLES I.
1625-1649.

Extrajudicial opinion.

Judgment.

Ship-money, and proceedings thereupon, contrary to law.

CHARLES I. 1625-1649. contrary to and against the laws and statutes of this realm, the right of property, the liberty of the subject, former resolutions in parliament, and the petition of right made in the third year of the reign of his majesty that now is.

Petition of
Right con-
firmed.

3. And it is further declared and enacted by the authority aforesaid, that all and every the particulars prayed or desired in the said petition of right, shall from henceforth be put in execution accordingly; and shall be firmly and strictly holden and observed as in the same petition they are prayed and expressed; and that all and every the records and remembrances of all and every the judgment, inrolments, entry, and proceedings as aforesaid, and all and every the proceedings whatsoever, upon or by pretext or colour of any of the said writs commonly called ship-writs, and all and every the dependants on any of them, shall be deemed and adjudged, to all intents, constructions, and purposes, to be utterly void and disannulled; and that all and every the said judgment, inrolments, entries, proceedings, and dependants of what kind soever, shall be vacated and cancelled, in such manner and form as records use to be that are vacated.

CHARLES THE SECOND.

1660-1685.

ETHELRED the Second had been in 1013, like the CHARLES II.
1660-1685. Stuarts in after times, excluded from the throne, on full evidence of his total incapacity for the kingly office, and Sweyn was called to fill his throne; Ethelred, and the ethelings Edward and Alfred, taking refuge in Normandy. At Sweyn's death a restoration of the old line was considered desirable; and our ancient historian, Florence of Worcester, gives, in short but expressive terms, the following account of the arrangement then made between the king and the witenagemot on behalf of the people.

“The elders of all England” (the *Saxon Chronicle* says “the witan of Angel-cynn, both clergy and laity,”) “took counsel together, and sent in haste messengers to Ethelred the king, saying that they loved and would love no one more than their natural lord, if he would but govern them better and treat them more mildly than he had done before. On hearing this, Ethelred, sending his son Edward with his own messengers to them, amiably saluted them all, both of higher and lower estate, of his nation, promising that he would be a good and just lord to them; would consent in

CHARLES II.
1660-1685. all things to their will, submit himself to their counsels, and cheerfully forgive whatever had been by them said or done unkindly or to the prejudice of him or his, if they would all unanimously, on their parts, and without guile, receive him back into his kingdom." The *Saxon Chronicle* gives Ethelred's answer to the overtures in these words: that "he would be good lord to them; amend those matters which, as all agreed, required reform; and grant a general pardon for all that had been said and done against him, provided they would submit to his royal authority without fraud or treachery." Florence continues, "to this all replied in good part; and so full friendship was confirmed by word and pledge on either side."

When the people of England tried the experiment of a return to monarchical institutions under Charles II. no such formal stipulations were made for the protection of popular interests. Perhaps those who might have sought to bind him by conditions suspected, as experience has proved, that these compacts are of little use; and that the only chance of mutuality in such arrangements is to establish a community of interest by breaking through the direct line of hereditary succession.

If, however, we look at the statute-book of this reign, we shall find in it some acts of considerable value. The spirit of liberty was still able to accomplish something, notwithstanding the unfortunate results attending the king's restoration. The 12th of Charles II. c. 24, accommodated the nature of property to the altered state of society, by abolishing feudal tenures and their incidents, still burdensome to the people, though now without any

such corresponding advantage to the king or the aristocracy as to make it worth while to struggle for their continuance. The holders of land were thus relieved from impositions which had always been the fruitful sources of dissension; and the crown assuredly did not lose by the bargain, when it obtained the Excise in exchange for some nearly barren prerogatives.

CHARLES II.
1660-1685.

The persevering efforts of the commons succeeded, after several struggles, in obtaining the passing of what is usually called "the *Habeas Corpus* Act." It is a common mistake to suppose that this statute *originated* an important extension of our liberties. The writ of *Habeas corpus*, and the subject's right to it, are as old as the oldest records of the constitution; but the act in question removed abuses and difficulties which time had accumulated in the practical working of an ancient institution, and points out in clear and effectual terms the mode of redress.

The clause of an act passed 31 Car. II. for granting a supply, extracted below, was no doubt, at the time, of considerable constitutional importance. These matters are now regulated by the annual mutiny acts.

Liberty, in matter of conscience, became, in point of law, absolutely extinct during this reign. The new "Act of Uniformity," (fitly appointed to come into operation on the feast of St. Bartholomew, as a due celebration of that anniversary), the "Corporation," the "Test," the "Conventicle," and "Five-mile" Acts, with the penal provisions directed against the Quakers,—all passed, not only in violation of christian principle and public policy,

CHARLES II.
1660-1685.

but in breach of solemn personal assurances,—
form together a code, to which it is a poor set-off to record, that in the same reign was conceded the abolition of the writ *De hæretico comburendo*; the abolition in fact of a punishment which no one would have dared to enforce, but for which the crafty hand of persecution had found comprehensive and effectual substitutes. The cruel unrelenting brutality of the attempts made to force episcopacy upon Scotland sufficiently evidences the lengths to which the spirit of persecution was prepared to go. The fatal consequences of imposing a state religion upon a population to which it is obnoxious, are too prominently displayed in the long story of Irish troubles for us not to feel the full value of the successful resistance made to a similar attempt upon the peace and welfare of Scotland.

12 CAR. II.—1660.

ABOLITION OF FEUDAL TENURES ACT.

CHAP. XXIV.

An Act for taking away the Court of Wards and Liveries, and Tenures *in Capite*, and by Knights Service and Purveyance, and for settling a Revenue upon his Majesty in lieu thereof.

WHEREAS it hath been found by former experience that the courts of Wards and Liveries and tenures by knights service, either of the king or others, or by knights service *in capite*, or socage *in capite* of the king, and the consequents upon the same, have been much more burthensome, grievous, and prejudicial to the kingdom than they have been beneficial to the king : and whereas since the intermission of the said court, which hath been from the four-and-twentieth day of February which was in the year of our Lord one thousand six hundred forty and five, many persons have by will and otherwise made disposal of their lands held by knights service, whereupon divers questions might possibly arise, unless some seasonable remedy be taken to prevent the same :

CHARLES II.
1660-1685.

Be it therefore enacted by the king our sovereign lord, with the assent of the lords and commons in parliament assembled and by the authority of the same, and it is hereby enacted, that the court of Wards and Liveries, and all wardships, liveries, primer seisins and ousterlemains, values and forfeitures of marriages, by reason of any tenure of the king's majesty or of any other by knights service, and all mean rates, and all other gifts, grants, charges, incident or arising for or by reason of wardships, liveries, primer seisins or ousterlemains be taken away and discharged, and are hereby enacted to be taken away and discharged, from the said twenty-fourth day of Fe-

The court of
wards, liver-
ies, &c. taken
away.

CHARLES II.
1660-1685.

bruary one thousand six hundred forty-five; any law, statute, custom, or usage to the contrary hereof in any wise notwithstanding. And that all fines for alienations, seizures and pardons for alienations, tenure by homage, and all charges incident or arising for or by reason of wardship, livery, primer seisin, or ousterlemain, or tenure by knights service, escuage, and also *aide pur file marrier* and *pur fair fitz chivalier*, all other charges incident thereunto, be likewise taken away and discharged, from the said twenty-fourth day of February one thousand six hundred forty and five; any law, statute, custom, or usage to the contrary hereof in any wise notwithstanding. And that all tenures by knights service of the king, or of any other person, and by knights service *in capite*, and by socage *in capite* of the king and the fruits and consequents thereof happened or which shall or may hereafter happen or arise thereupon or thereby, be taken away and discharged; any law, statute, custom, or usage to the contrary hereof in any wise notwithstanding. And all tenures of any honours, manors, lands, tenements, or hereditaments, or any estate of any inheritance at the common law, held either of the king or of any other person or persons, bodies politick or corporate, are hereby enacted to be turned into free and common socage, to all intents and purposes, from the said twenty-fourth day of February one thousand six hundred forty-five, and shall be so construed, adjudged, and deemed to be from the said twenty-fourth day of February one thousand six hundred forty-five, and for ever thereafter turned into free and common socage; any law, statute, custom or usage to the contrary hereof in any wise notwithstanding.

Tenures by
homage, es-
cuage, &c.
discharged.

2. And that the same shall for ever hereafter stand and be discharged of all tenure by homage, escuage, voyages royal and charges for the same, wardships incident to tenure by knights service, and values and forfeitures of marriage, and all other charges incident to tenure by knights service, and of and from *aide pur file marrier* and *aide pur fair fitz chivalier*; any law, statute, usage, or custom to the contrary in any wise notwithstanding. And that all conveyances and devises of any manors, lands, tenements, and hereditaments made since the said twenty-fourth day

of February shall be expounded to be of such effect as if CHARLES II.
1660-1685.
the same manors, lands, tenements, and hereditaments had been then held and continued to be holden in free and common socage only; any law, statute, custom, or usage to the contrary hereof in any wise notwithstanding.

3. And be it further ordained and enacted by the authority Acts repealed.
of this present parliament, that one act made in the reign of King Henry the Eighth, intituled An Act for the establishment of the court of the King's Wards; and also one act of parliament made in the thirty-third year of the reign of the said King Henry the Eighth, concerning the officers of the court of Wards and Liveries, and every clause, article, and matter in the said acts contained, shall from henceforth be repealed and utterly void.

4. And be it further enacted by the authority aforesaid Tenures created by the king shall be free and common socage.
that all tenures hereafter to be created by the king's majesty, his heirs or successors, upon any gifts or grants of any manors, lands, tenements, or hereditaments of any estate of inheritance at the common law, shall be in free and common socage; and shall be adjudged to be in free and common socage only, and not by knights service or *in capite*; and shall be discharged of all wardship, value and forfeiture of marriage, livery, primer seisin, ouster-lemain, *aide pur fair fitz chivalier* and *pur file marrier*; any law, statute, or reservation to the contrary thereof in any wise notwithstanding.

5. Provided nevertheless and be it enacted, that this Heriots, reliefs, &c. saved.
act or anything herein contained, shall not take away nor be construed to take away any rents certain, heriots, or suits of court belonging or incident to any former tenure now taken away or altered by virtue of this act, or other services incident or belonging to tenure in common socage due or to grow due to the king's majesty, or mean lords, or other private person, or the fealty and distresses incident thereunto; and that such relief shall be paid in respect of such rents as is paid in case of a death of a tenant in common socage.

6. Provided always and be it enacted, that anything Fines due by customs of manors.
herein contained shall not take away, nor be construed to take away any fines for alineation due by particular customs of particular manors and places, other than fines

CHARLES II. for alineations of lands or tenements holden immediately
1660-1685. of the king *in capite*.

Tenures in
frank-al-
moign.

7. Provided also and be it further enacted, that this act or anything therein contained shall not take away or be construed to take away tenures in *frank-almoign*, or to subject them to any greater or other services than they now are ; nor to alter or change any tenure by copy of court roll or any services incident thereunto ; nor to take away the honorary services of grand serjeanty, other than of wardship, marriage, and value of forfeiture of marriage, escuage, voyages royal, and other charges incident to tenure by knights service, and other than *aide pur fair fitz chivalier* and *aide pur file marrier*.

Parents may
dispose of
the custody
of children
during their
minority.

8. And be it further enacted by the authority aforesaid, that where any person hath or shall have any child or children under the age of one-and-twenty years, and not married at the time of his death, that it shall and may be lawful to and for the father of such child or children, whether born at the time of the decease of the father, or at that time in *ventre sa mere*, or whether such father be within the age of one-and-twenty years, or of full age, by his deed executed in his lifetime, or by his last will and testament in writing, in the presence of two or more creditable witnesses, in such manner and from time to time as he shall respectively think fit, to dispose of the custody and tuition of such child or children, for and during such time as he or they shall respectively remain under the age of one-and-twenty years, or any lesser time, to any person or persons in possession or remainder, other than popish recusants ; and that such disposition of the custody of such child or children made since the twenty-fourth of February one thousand six hundred forty-five, or hereafter to be made, shall be good and effectual against all and every person or persons claiming the custody or tuition of such child or children as guardian in socage or otherwise. And that such person or persons to whom the custody of such child or children hath been or shall be so disposed or devised as aforesaid, shall and may maintain an action of ravishment of ward or trespass against any person or persons which shall wrongfully take away or detain such child or children, for the recovery of such

child or children, and shall and may recover damages for the same in the said action for the use and benefit of such child or children. CHARLES II.
1660-1685.

9. And be it further enacted, that such person or persons to whom the custody of such child or children hath been or shall be so disposed or devised, shall and may take into his or their custody, to the use of such child or children, the profits of all lands, tenements, and hereditaments of such child or children; and also the custody, tuition, and management of the goods, chattels, and personal estate of such child or children, till their respective age of one-and twenty years, or any lesser time, according to such disposition aforesaid; and may bring such action or actions in relation thereunto as by law a guardian in common socage might do. Guardians'
power.

29 CAR. II.—1676.

WRIT DE HÆRETICO COMBURENDO
ABOLITION ACT.

CHAP. IX.

An Act for taking away the writ *De Hæretico comburendo*.

Be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present parliament assembled, and by the authority of the same, that the writ commonly called *Breve de hæretico comburendo*, with all process and proceedings thereupon, in order to the executing such writ or following or depending thereupon, and all punishment by death in pursuance of any ecclesiastical censures, be Writ abo-
lished.

CHARLES II. from henceforth utterly taken away and abolished ; any
 1660-1685. law, statute, canon, constitution, custom, or usage, to
 the contrary heretofore or now in force in any wise notwithstanding.

Saving of ecclesiastical jurisdiction.

2. Provided always, that nothing in this act shall extend or be construed to take away or abridge the jurisdiction of protestant archbishops or bishops, or any other judges of any ecclesiastical courts in cases of atheism, blasphemy, heresy, or schism, and other damnable doctrines and opinions, but that they may proceed to punish the same according to his majesty's ecclesiastical laws, by excommunication, deprivation, degradation, and other ecclesiastical censures, not extending to death, in such sort and no other, as they might have done before the making of this act ; anything in this law contained to the contrary in any wise notwithstanding.

31 CAR. II.—1677.

BILLETING OF SOLDIERS ABOLITION ACT.

CHAP. I.

An Act for granting a Supply to his Majesty, &c.

Soldiers shall not be quartered on any persons against their consent

54. And whereas by the laws and customs of this realm the inhabitants thereof cannot be compelled against their wills to receive soldiers into their houses and to sojourn them there ; Be it declared and enacted by the authority aforesaid, that no officer, military or civil, nor any other person whatever, shall from henceforth presume to place, quarter, or billet any soldier or soldiers upon any subject or inhabitant of this realm of any degree, quality, or profession whatever, without his consent ; and that it shall

and may be lawful for every such subject and inhabitant to refuse to sojourn or quarter any soldier or soldiers, notwithstanding any command, order, warrant, or billeting whatever.

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1660-1685.

31 CAR. II.—1677.

HABEAS CORPUS ACT.

CHAP. II.

An Act for the better securing the Liberty of the Subject, and for prevention of Imprisonments beyond the Seas.

Whereas great delays have been used by sheriffs, gaolers, and other officers, to whose custody any of the king's subjects have been committed for criminal or supposed criminal matters, in making returns of writs of *Habeas corpus* to them directed, by standing out an *alias* and *pluries habeas corpus*, and sometimes more, and by other shifts to avoid their yielding obedience to such writs, contrary to their duty and the known laws of the land, whereby many of the king's subjects have been and hereafter may be long detained in prison, in such cases where by law they are bailable, to their great charges and vexation.

2. For the prevention whereof, and the more speedy relief of all persons imprisoned for any such criminal or supposed criminal matters; Be it enacted that whensoever any person or persons shall bring any *habeas corpus* directed unto any sheriff or sheriffs, gaoler, minister or other person whatsoever, for any person in his or their custody, and the said writ shall be served upon the said officer, or left at the gaol or prison with any of

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Writs of *habeas corpus*
within three
days after
service to be
returned, &c.

the under-officers, under-keepers or deputy of the said officers or keepers, that the said officer or officers, his or their under-officers, under-keepers or deputies, shall within three days after the service thereof as aforesaid (unless the commitment aforesaid were for treason or felony, plainly and specially expressed in the warrant of commitment) upon payment or tender of the charges of bringing the said prisoner, to be ascertained by the judge or court that awarded the same, and endorsed upon the said writ, not exceeding twelve pence *per* mile, and upon security given by his own bond to pay the charges of carrying back the prisoner, if he shall be remanded by the court or judge to which he shall be brought, according to the true intent of this present act, and that he will not make any escape by the way, make return of such writ ; And bring or cause to be brought the body of the party so committed or restrained unto or before the lord chancellor, or lord keeper of the great seal of England for the time being, or the judges or barons of the said court from whence the said writ shall issue, or unto and before such other person or persons before whom the said writ is made returnable according to the command thereof ; And shall then likewise certify the true causes of his detainer or imprisonment, unless the commitment of the said party be in any place beyond the distance of twenty miles from the place or places where such court or person is or shall be residing ; and if beyond the distance of twenty miles, and not above one hundred miles, then within the space of ten days ; and if beyond the distance of one hundred miles, then within the space of twenty days after such delivery aforesaid, and not longer.

Such writs
how to be
marked.

Proceedings
in vacation
time.

3. And to the intent that no sheriff, gaoler, or other officer may pretend ignorance of the import of any such writ ; Be it enacted by the authority aforesaid, that all such writs shall be marked in this manner, *per statutum tricesimo primo Caroli Secundi Regis*, and shall be signed by the person that awards the same. And if any person or persons shall be or stand committed or detained as aforesaid for any crime, unless for felony or treason plainly expressed in the warrant of commitment, in the vacation time, and out of term, it shall and may be lawful to and

for the person or persons so committed or detained (other than persons convict or in execution by legal process) or any one on his or their behalf, to appeal or complain to the lord chancellor or lord keeper, or any one of his majesty's justices, either of the one bench or of the other, or the barons of the Exchequer of the degree of the coif. And the said lord chancellor, lord keeper, justices or barons or any of them, upon view of the copy or copies of the warrant or warrants of commitment and detainer, or otherwise upon oath made that such copy or copies were denied to be given by such person or persons in whose custody the prisoner or prisoners is or are detained, are hereby authorized and required, upon request made in writing by such person or persons, or any on his, her, or their behalf, attested and subscribed by two witnesses who were present at the delivery of the same, to award and grant an *habeas corpus* under the seal of such court whereof he shall then be one of the judges, to be directed to the officer or officers in whose custody the party so committed or detained shall be, returnable *immediate* before the said lord chancellor or lord keeper, or such justice, baron, or any other justice or baron of the degree of the coif of any of the said courts. And upon service thereof as aforesaid, the officer or officers, his or their under-officer or under-officers, under-keeper or under-keepers, or their deputy, in whose custody the party is so committed or detained, shall within the times respectively before limited bring such prisoner or prisoners before the said lord chancellor or lord keeper, or such justices, barons, or one of them, before whom the said writ is made returnable; and in case of his absence before any other of them, with the return of such writ, and the true causes of the commitment and detainer. And thereupon within two days after the party shall be brought before them, the said lord chancellor or lord keeper, or such justice or baron before whom the prisoner shall be brought as aforesaid, shall discharge the said prisoner from his imprisonment, taking his or their recognizance, with one or more surety or sureties, in any sum according to their discretions; having regard to the quality of the prisoner and nature of the offence, for his or their appearance in the court of King's Bench the

CHARLES II.
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term following, or at the next assizes, sessions, or general gaol delivery of and for such county, city, or place where the commitment was, or where the offence was committed, or in such other court where the said offence is properly cognizable, as the case shall require; And then shall certify the said writ with the return thereof, and the said recognizance or recognizances, into the said court where such appearance is to be made; Unless it shall appear unto the said lord chancellor or lord keeper, or justice or justices, or baron or barons, that the party so committed is detained upon a legal process, order, or warrant, out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said justices or barons, or some justice or justices of the peace for such matters or offences for the which by the law the prisoner is not bailable.

As to persons
neglecting
two terms.

4. Provided always and be it enacted, that if any person shall have wilfully neglected by the space of two whole terms after his imprisonment to pray a *habeas corpus* for his enlargement, such person so wilfully neglecting shall not have any *habeas corpus* to be granted in vacation time, in pursuance of this act.

Penalties.

5. [Imposes penalties on gaolers, &c. neglecting to make return; to bring up the body, or to deliver copy of the warrant of commitment or detainer.

Protection.

6. Protects parties discharged on *habeas corpus* from future commitment for the same offence, otherwise than by legal course.]

Persons
committed
for treason,
&c.

7. Provided always and be it further enacted, that if any person or persons shall be committed for high treason or felony, plainly and specially expressed in the warrant of commitment, upon his prayer or petition in open court the first week of the term, or first day of the sessions of *oyer* and *terminer* or general gaol delivery to be brought to his trial, shall not be indicted some time in the next term, sessions of *oyer* and *terminer* or general gaol delivery after such commitment; it shall and may be lawful to and for the judges of the court of King's Bench and justices of *oyer* and *terminer* or general gaol delivery, and they are hereby required upon motion to them made in open court the last day of the term, sessions, or gaol de-

livery, either by the prisoner or any one in his behalf, to set at liberty the prisoner upon bail; unless it appear to the judges and justices upon oath made that the witnesses for the king could not be produced the same term, sessions, or general gaol delivery; And if any person or persons committed as aforesaid, upon his prayer or petition in open court the first week of the term or first day of the sessions of *oyer* and *terminer* and general gaol delivery, to be brought to his trial, shall not be indicted and tried the second term, sessions of *oyer* and *terminer*, or general gaol delivery after his commitment, or upon his trial shall be acquitted, he shall be discharged from his imprisonment.

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1660-1685.

and tried the
term, &c.
after, or dis-
charged.

9. Provided always that if any person or persons, subjects of this realm, shall be committed to any prison or in custody of any officer or officers whatsoever, for any criminal or supposed criminal matter, that the said person shall not be removed from the said prison and custody into the custody of any other officer or officers; unless it be by *habeas corpus* or some other legal writ; or where the prisoner is delivered to the constable or other inferior officer to carry such prisoner to some common gaol; or where any person is sent by order of any judge of assize or justice of the peace to any common work-house or house of correction; or where the prisoner is removed from one prison or place to another within the same county, in order to his or her trial or discharge in due course of law; or in case of sudden fire or infection, or other necessity. And if any person or persons shall, after such commitment aforesaid make out and sign, or countersign any warrant or warrants for such removal aforesaid contrary to this act, as well he that makes or signs or countersigns such warrant or warrants as the officer or officers that obey or execute the same, shall suffer and incur the pains and forfeitures in this act before mentioned, both for the first and second offence respectively, to be recovered in manner aforesaid by the party grieved.

Prisoners
not to be re-
moved.

10. Provided also that it shall and may be lawful to and for any prisoner and prisoners as aforesaid to move and obtain his or their *habeas corpus* as well out of the high court of Chancery or court of Exchequer, as out of the

The penalty
for denying a
*habeas cor-
pus*.

CHARLES II. courts of King's Bench or Common Pleas, or either of
 1660-1685. them ; And if the said lord chancellor or lord keeper, or
 any judge or judges, baron or barons for the time being,
 of the degree of the coif of any of the courts aforesaid,
 in the vacation time, upon view of the copy or copies of
 the warrant or warrants of commitment or detainer, or
 upon oath made that such copy or copies were denied as
 aforesaid, shall deny any writ of *habeas corpus* by this
 act required to be granted, being moved for as aforesaid,
 they shall severally forfeit to the prisoner or party grieved
 the sum of five hundred pounds, to be recovered in man-
 ner aforesaid.

No subjects
 shall be sent
 to foreign
 prisons.

12. And for preventing illegal imprisonments in pri-
 sons beyond the seas ; Be it further enacted by the au-
 thority aforesaid, that no subject of this realm that now
 is, or hereafter shall be an inhabitant or resiant of this
 kingdom of England, dominion of Wales, or town of Ber-
 wick upon Tweed, shall or may be sent prisoner into
 Scotland, Ireland, Jersey, Guernsey, Tangier, or into
 parts, garrisons, islands, or places beyond the seas, which
 are or at any time hereafter shall be within or without
 the dominions of his majesty, his heirs or successors ; and
 that every such imprisonment is hereby enacted and
 adjudged to be illegal. And that if any of the said sub-
 jects now is or hereafter shall be so imprisoned, every
 such person and persons so imprisoned shall and may for
 every such imprisonment maintain by virtue of this act
 an action or actions of false imprisonment, in any of his
 majesty's courts of record, against the person or persons
 by whom he or she shall be so committed, detained, im-
 prisoned, sent prisoner or transported, contrary to the
 true meaning of this act, and against all or any person
 or persons that shall frame, contrive, write, seal, or coun-
 tersign any warrant or writing for such commitment,
 detainer, imprisonment, or transportation, or shall be
 advising, aiding, or assisting in the same or any of them.

WILLIAM AND MARY
AND
WILLIAM THE THIRD.

1689-1702.

WE have chronicled nothing regarding the last of the Stuarts. No part of his career became him, or did the nation service, save the final act which put it out of his power to effect further mischief; and we pass on therefore to record the constitutional laws passed upon the accession of a prince called in to vindicate practically those maxims of liberty, for which, in good and evil days, England had contended through so many centuries.

WILLIAM
and MARY.
1689-1702.

The first in importance is "The Bill of Rights," confirming by formal enactment the rights and liberties which had formed the subject of "The Declaration of Rights," resolved upon by parliament when, in exercise of its most important constitutional function, it chose a new king to fill the vacant throne. The Bill of Rights, it will be seen, introduces little or no new law, either in restraint of the crown or extension of popular privileges. It is but a declaration of what the spirit, and even the letter, of our old constitutional law had long before repeatedly recognized. The act establishing

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the Coronation Oath will also be found among our extracts, as well as the salutary law concerning trials for treason*.

A great constitutional point was for the time settled by the act for making parliaments triennial; and we extract it in order to complete the scheme of the revolution of 1688, although it has become of little practical importance on account of the alteration affected by the Septennial Act.

A place will of course be found for what is emphatically called "The TOLERATION Act;"—so far valuable as it gave some indication of a return to right feelings, or at least of a check being given to the persecuting spirit so disgraceful to our history, and as it was practically acted upon in a more liberal spirit than its provisions promise;—but in itself, both in name and substance, "a very scanty measure of religious liberty." From the "*toleration*," which the professors of one set of religious opinions now deigned to extend to other denominations of Christians, this law excludes not only the Roman catholics, but even all those protestants whose professed amount of belief did not stand with reference to the episcopalian church in the proportion of at least thirty-five and a half articles to thirty-nine, and especially all such as took a different view of the doctrine of the Trinity,—a new and barbarous penal law being specially directed against this latter class of heretics.

* The settlement of the law on this head is completed by the statutes passed in the 36th and 37th years of George the Third.

The "Act of Settlement" is in every point of view a valuable constitutional precedent, forming the last avowed and direct legislative provision in restraint of the power of the crown. The establishment of the independence of the judges, by their being made removeable only on a conviction or on the address of both houses of parliament, may be particularly noticed, because it is popularly but erroneously placed to the credit of George the Third.

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and MARY.
1689-1702.

1 WILL. and MARY, Sess. 1.—1689.

CORONATION OATH ACT.

CHAP. VI.

An Act for establishing the Coronation Oath.

WILLIAM
and MARY.
1689-1702.

WHEREAS by the law and ancient usage of this realm the kings and queens thereof have taken a solemn oath upon the Evangelists, at their respective coronations, to maintain the statutes, laws, and customs of the said realm, and all the people and inhabitants thereof in their spiritual and civil rights and properties; but forasmuch as the oath itself on such occasion administred hath heretofore been framed in doubtful words and expressions, with relation to ancient laws and constitutions at this time unknown: To the end therefore that one uniform oath may be in all times to come taken by the kings and queens of this realm, and to them respectively administered at the times of their and every of their coronation; may it please your majesties that it may be enacted,

Oath.

2. And be it enacted by the king's and queen's most excellent majesties, by and with the advice and consent of the lords spiritual and temporal and the commons in this present parliament assembled, and by the authority of the same, that the oath herein mentioned, and hereafter expressed, shall and may be administred to their most excellent majesties King William and Queen Mary (whom God long preserve) at the time of their coronation, in the presence of all persons that shall be then and there present at the solemnizing thereof by the archbishop of Canterbury or the archbishop of York, or either of them, or any other bishop of this realm whom the king's majesty shall thereunto appoint, and who shall be hereby thereunto respectively authorized; which oath followeth, and shall be administred in this manner; that is to say,

3. The archbishop or bishop shall say,

Will you solemnly promise and swear to govern the people of this kingdom of England, and the dominions thereto belonging, according to the statutes in parliament agreed on, and the laws and customs of the same ?

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and MARY.
1689-1702.

Form.

The king and queen shall say,—I solemnly promise so to do.

Archbishop or bishop.—Will you to your power cause law and justice in mercy to be executed in all your judgments ?

King and Queen.—I will.

Archbishop or Bishop.—Will you to the utmost of your power maintain the laws of God, the true profession of the gospel, and the protestant reformed religion established by law ? And will you preserve unto the bishops and clergy of this realm, and to the churches committed to their charge, all such rights and privileges as by law do or shall appertain unto them or any of them ?

King and Queen.—All this I promise to do.

After this, the king and queen, laying his and her hand upon the Holy Gospels, shall say,

King and Queen.—The things which I have here before promised I will perform and keep : So help me God.

Then the king and queen shall kiss the book.

4. And be it further enacted, that the said oath shall be in like manner administred to every king or queen who shall succeed to the imperial crown of this realm, at their respective coronations, by one of the archbishops or bishops of this realm of England for the time being, to be thereunto appointed by such king or queen respectively, and in the presence of all persons that shall be attending, assisting, or otherwise present at such their respective coronations ; any law, statute, or usage to the contrary notwithstanding.

All kings &c.
to take the
oath.

1 WILL. and MARY, Sess. 2.—1689.

BILL OF RIGHTS.

CHAP. II.

An Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown.

WILLIAM
and MARY.
1689-1702.

WHEREAS the lords spiritual and temporal and commons assembled at Westminster, lawfully, fully, and freely representing all the estates of the people of this realm, did, upon the thirteenth day of February in the year of our lord one thousand six hundred eighty-eight, present unto their majesties, then called and known by the names and style of William and Mary, Prince and Princess of Orange, being present in their proper persons, a certain declaration in writing made by the said lords and commons, in the words following; *viz.*

Whereas the late King James the Second, by the assistance of divers evil counsellors, judges, and ministers employed by him, did endeavour to subvert and extirpate the protestant religion, and the laws and liberties of this kingdom;

1. By assuming and exercising a power of dispensing with and suspending of laws, and the execution of laws, without consent of parliament;

2. By committing and prosecuting divers worthy prelates, for humbly petitioning to be excused from concurring to the said assumed power;

3. By issuing and causing to be executed a commission under the great seal for erecting a court, called the Court of Commissioners for Ecclesiastical Causes;

4. By levying money for and to the use of the crown, by pretence of prerogative, for other time and in other manner than the same was granted by parliament;

5. By raising and keeping a standing army within this kingdom in time of peace, without consent of parliament, and quartering soldiers contrary to law.

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and MARY.
1689-1702.

6. By causing several good subjects, being protestants, to be disarmed, at the same time when papists were both armed and employed, contrary to law.

7. By violating the freedom of election of members to serve in parliament.

8. By prosecutions in the court of King's Bench, for matters and causes cognizable only in parliament; and by divers other arbitrary and illegal courses.

9. And whereas of late years, partial, corrupt, and unqualified persons have been returned and served on juries in trials, and particularly divers jurors in trials for high treason, which were not freeholders.

10. And excessive bail hath been required of persons committed in criminal cases, to elude the benefit of the laws made for the liberty of the subjects.

11. And excessive fines have been imposed; and illegal and cruel punishments inflicted.

12. And several grants and promises made of fines and forfeitures, before any conviction or judgement against the persons upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes, and freedom of this realm.

And whereas the said late King James the Second having abdicated the government, and the throne being thereby vacant, his highness the Prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the lords spiritual and temporal, and divers principal persons of the commons) cause letters to be written to the lords spiritual and temporal, being protestants; and other letters to the several counties, cities, universities, boroughs, and cinque-ports, for the choosing of such persons to represent them as were of right to be sent to parliament, to meet and sit at Westminster upon the two-and-twentieth day of January in this year one thousand six hundred eighty and eight, in order to such an establishment as that their religion, laws, and liberties might not again be in danger of being

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and MARY.
1689-1702.

subverted ; upon which letters, elections having been accordingly made,

And thereupon the said lords spiritual and temporal, and commons, pursuant to their respective letters and elections, being now assembled in a full and free representative of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid ; do in the first place (as their ancestors in like case have usually done) for the vindicating and asserting their ancient rights and liberties, declare ;

. Rights.

1. That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of parliament, is illegal.

2. That the pretended power of dispensing with laws, or the execution of laws, by regal authority, as it hath been assumed and exercised of late, is illegal.

3. That the commission for erecting the late court of commissioners for ecclesiastical causes, and all other commissions and courts of like nature, are illegal and pernicious.

4. That levying money for or to the use of the crown by pretence of prerogative, without grant of parliament, for longer time, or in other manner, than the same is or shall be granted, is illegal.

5. That it is the right of the subjects to petition the king ; and all commitments and prosecutions for such petitioning are illegal.

6. That the raising or keeping a standing army within the kingdom in the time of peace, unless it be with consent of parliament, is against law.

7. That the subjects which are protestants may have arms for their defence, suitable to their conditions, and as allowed by law.

8. That election of members of parliament ought to be free.

9. That the freedom of speech, and debates or proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament.

10. That excessive bail ought not to be required, nor excessive fines imposed ; nor cruel and unusual punishments inflicted.

11. That jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders.

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and MARY.
1689-1702.

12. That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void.

13. And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, parliaments ought to be held frequently.

And they do claim, demand, and insist upon all and singular the premises, as their undoubted rights and liberties; and that no declarations, judgements, doings, or proceedings to the prejudice of the people in any of the said premises, ought in any wise to be drawn hereafter into consequence or example.

To which demand of their rights they are particularly encouraged by the declaration of his highness the prince of Orange, as being the only means for obtaining a full redress and remedy therein.

Having therefore an entire confidence, that his said highness the prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights which they have here asserted, and from all other attempts upon their religion, rights, and liberties,

2. The said lords spiritual and temporal and commons assembled at Westminster do resolve, that William and Mary prince and princess of Orange be, and be declared, king and queen of England, France, and Ireland, and the dominions thereunto belonging, to hold the crown and royal dignity of the said kingdoms and dominions to them the said prince and princess during their lives, and the life of the survivor of them; and that the sole and full exercise of the regal power be only in, and executed by, the said prince of Orange, in the names of the said prince and princess, during their joint lives; and after their deceases, the said crown and royal dignity of the said kingdoms and dominions to be to the heirs of the body of the said princess; and for default of such issue to the Princess Anne of Denmark and the heirs of her body; and for default of such issue to the heirs of the body of the said prince of Orange. And the lords spiritual and temporal

Tender of the
crown.

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and MARY.
1689-1702.

New oaths.

and commons do pray the said prince and princess to accept the same accordingly.

3. And that the oaths hereafter mentioned be taken by all persons of whom the oaths of allegiance and supremacy might be required by law, instead of them ; and that the said oaths of allegiance and supremacy be abrogated.

Allegiance.

I A.B. do sincerely promise and swear, that I will be faithful and bear true allegiance to their majesties King William and Queen Mary : So help me God.

Supremacy.

I A.B. do swear that I do from my heart abhor, detest, and abjure, as impious and heretical, that damnable doctrine and position, that princes excommunicated or deprived by the pope, or any authority of the see of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare that no foreign prince, person, prelate, state, or potentate hath, or ought to have, any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within this realm: So help me God.

Acceptance
of the crown.

4. Upon which their said majesties did accept the crown and royal dignity of the kingdoms of England, France, and Ireland, and the dominions thereunto belonging, according to the resolution and desire of the said lords and commons contained in the said declaration.

The two
houses to sit.

5. And thereupon their majesties were pleased that the said lords spiritual and temporal, and commons, being the two houses of parliament, should continue to sit, and with their majesties' royal concurrence make effectual provision for the settlement of the religion, laws, and liberties of this kingdom, so that the same for the future might not be in danger again of being subverted ; to which the said lords spiritual and temporal, and commons, did agree, and proceed to act accordingly.

Subjects' li-
berties to be
allowed.

6. Now, in pursuance of the premises, the said lords spiritual and temporal and commons in parliament assembled, for the ratifying, confirming, and establishing the said declaration, and the articles, clauses, matters, and things therein contained, by the force of a law made in due form by authority of parliament, do pray that it may be declared and enacted, That all and singular the rights and liberties asserted and claimed in the said declaration

are the true, ancient, and indubitable rights and liberties of the people of this kingdom, and so shall be esteemed, allowed, adjudged, deemed, and taken to be, and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said declaration; and all officers and ministers whatsoever shall serve their majesties and their successors according to the same in all times to come.

WILLIAM
and MARY.
1689-1702.

7. And the said lords spiritual and temporal, and commons, seriously considering how it hath pleased Almighty God, in his marvellous providence and merciful goodness to this nation, to provide and preserve their said majesties' royal persons most happily to reign over us upon the throne of their ancestors, for which they render unto him from the bottom of their hearts their humblest thanks and praises, do truly, firmly, assuredly, and in the sincerity of their hearts think, and do hereby recognize, acknowledge, and declare, that King James the Second having abdicated the government, and their majesties having accepted the crown and royal dignity as aforesaid, their said majesties did become, were, are, and of right ought to be, by the laws of this realm, our sovereign liege lord and lady, king and queen of England, France, and Ireland, and the dominions thereunto belonging, in and to whose princely persons the royal state, crown, and dignity of the said realms, with all honours, stiles, titles, regalities, prerogatives, powers, jurisdictions, and authorities to the same belonging and appertaining, are most fully, rightfully, and intirely invested and incorporated, united, and annexed.

William and
Mary de-
clared king
and queen.

8. And for preventing all questions and divisions in this realm, by reason of any pretended titles to the crown, and for preserving a certainty in the succession thereof, in and upon which the unity, peace, tranquillity, and safety of this nation doth, under God, wholly consist and depend, the said lords spiritual and temporal, and commons, do beseech their majesties that it may be enacted, established, and declared, that the crown and regal government of the said kingdoms and dominions, with all and singular the premises thereunto belonging and appertaining, shall be and continue to their said majesties, and

Limitation of
the crown.

WILLIAM
and MARY.
1689-1702.

the survivor of them, during their lives, and the life of the survivor of them : and that the intire, perfect, and full exercise of the regal power and government be only in and executed by his majesty, in the names of both their majesties, during their joint lives ; and after their deceases the said crown and premises shall be and remain to the heirs of the body of her majesty ; and for default of such issue, to her royal highness the Princess Anne of Denmark and the heirs of her body ; and for default of such issue to the heirs of the body of his said majesty : and thereunto the said lords spiritual and temporal, and commons do, in the name of all the people aforesaid, most humbly and faithfully submit themselves, their heirs and posterities for ever ; and do faithfully promise that they will stand to, maintain, and defend their said majesties, and also the limitation and succession of the crown herein specified and contained, to the utmost of their powers, with their lives and estates, against all persons whatsoever that shall attempt anything to the contrary.

Papists de-
barred the
crown.

9. And whereas it hath been found by experience, that it is inconsistent with the safety and welfare of this protestant kingdom, to be governed by a popish prince, or by any king or queen marrying a papist ; the said lords spiritual and temporal, and commons, do further pray that it may be enacted, that all and every person and persons that is, are, or shall be reconciled to, or shall hold communion with the see or church of Rome, or shall profess the popish religion, or shall marry a papist, shall be excluded, and be for ever incapable to inherit, possess, or enjoy the crown and government of this realm and Ireland, and the dominions thereunto belonging, or any part of the same, or to have, use, or exercise any regal power, authority, or jurisdiction within the same ; and in all and every such case or cases the people of these realms shall be and are hereby absolved of their allegiance ; and the said crown and government shall from time to time descend to, and be enjoyed by such person or persons, being protestants, as should have inherited and enjoyed the same in case the said person or persons so reconciled, holding communion, or professing, or marrying as aforesaid, were naturally dead.

10. And that every king and queen of this realm, who at any time hereafter shall come to and succeed in the imperial crown of this kingdom, shall on the first day of the meeting of the first parliament, next after his or her coming to the crown, sitting in his or her throne in the house of peers, in the presence of the lords and commons therein assembled, or at his or her coronation, before such person or persons who shall administer the coronation oath to him or her, at the time of his or her taking the said oath (which shall first happen) make, subscribe, and audibly repeat the declaration mentioned in the statute made in the thirtieth year of the reign of King Charles the Second, intituled 'An Act for the more effectual preserving the king's person and government, by disabling papists from sitting in either house of parliament.' But if it shall happen that such king or queen, upon his or her succession to the crown of this realm, shall be under the age of twelve years, then every such king or queen shall make, subscribe, and audibly repeat the said declaration at his or her coronation, or the first day of the meeting of the first parliament as aforesaid, which shall first happen after such king or queen shall have attained the said age of twelve years.

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and MARY.
1689-1702.

All kings, &c.
to take the
declaration
of 30 Car. II.
stat. 2, c. 1.

11. All which their majesties are contented and pleased shall be declared, enacted, and established by authority of this present parliament, and shall stand, remain, and be the law of this realm for ever; and the same are by their said majesties, by and with the advice and consent of the lords spiritual and temporal and commons in parliament assembled, and by the authority of the same, declared, enacted, and established accordingly.

King's as-
sent.

12. And be it further declared and enacted by the authority aforesaid, that from and after this present session of parliament, no dispensation by *non obstante* of or to any statute, or any part thereof, shall be allowed, but that the same shall be held void and of no effect, except a dispensation be allowed of in such statute, and except in such cases as shall be specially provided for by one or more bill or bills to be passed during this present session of parliament.

*Non ob-
stantes* made
void.

13. Provided that no charter, or grant, or pardon,

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and MARY.
1689-1702.

Pardons ex-
cepted before
October.

granted before the three-and-twentieth day of October in the year of our Lord one thousand six hundred eighty-nine, shall be any ways impeached or invalidated by this act, but that the same shall be and remain of the same force and effect in law, and no other than as if this act had never been made.

1 WILL. and MARY, Sess. 1.—1689.

TOLERATION ACT.

CHAP. XVIII.

An Act for exempting their Majesties' Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws.

Forasmuch as some ease to scrupulous consciences, in the exercise of religion, may be an effectual means to unite their majesties' protestant subjects in interest and affection :

Several laws
not to extend
to certain
dissenters.

2. Be it enacted that neither the statute 23 Eliz. c. 1, nor the statute 29 Eliz. c. 6, nor that branch or clause of a statute made 1 Eliz. c. 2, whereby all persons, having no lawful or reasonable excuse to be absent, are required to resort to their parish church or chapel, or some usual place where the common prayer shall be used, upon pain of punishment by the censures of the church, and also upon pain that every person so offending shall forfeit for every such offence, twelve-pence : nor the statute 3 Jac. I. c. 4, nor that other statute made 3 Jac. I. c. 5, nor any other law or statute of this realm made against papists or popish recusants, except the statute made 25 Car. II. c. 2, and except also the statute made 30 Car. II. st. 2, shall be con-

strued to extend to any person or persons dissenting from the church of England, that shall take the oaths mentioned in a statute made this present parliament, intituled An 'Act for removing and preventing all questions and disputes concerning the assembling and sitting of this present parliament;' and shall make and subscribe the declaration mentioned in a statute made 30 Car. II. st. 2, which oaths and declaration the justices of peace, at the general sessions of the peace to be held for the county or place where such person shall live, are hereby required to tender and administer to such persons as shall offer themselves to take, make, and subscribe the same, and thereof to keep a register:—fee to be six-pence for entry of taking the oaths, and making the declaration; and six-pence for any certificate of the same.

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and MARY.
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Taking
oaths, &c.
to be regis-
tered.

3. Persons already convicted, or prosecuted, taking the said oaths and declaration, to be thenceforth discharged from penalties, &c.

Persons con-
victed to be
discharged.

4. All such persons exempted from penalties in an act made 35 Eliz. c. 1, and in an act made 22 Car. II. c. 1, and not to be prosecuted in any ecclesiastical court, for or by reason of their non-conforming to the church of England.

Ecclesiasti-
cal court.

5. Provided always, that if any assembly of persons dissenting from the church of England, shall be had in any place for religious worship, with the doors locked, barred, or bolted, during any time of such meeting together, all and every person or persons that shall come to and be at such meeting shall not receive any benefit from this law.

Private
meetings ex-
cluded.

6. Nothing therein contained to be construed to exempt from tithes or other parochial duties.

Tithes saved.

7. And be it further enacted, that if any person dissenting from the church of England, as aforesaid, shall hereafter be chosen or otherwise appointed to bear the office of high constable, or petit constable, churchwarden, overseer of the poor, or any other parochial or ward office, and such person shall scruple to take upon him any of the said offices in regard of the oaths, or any other matter or thing required by the law to be taken or done in respect of such office, every such person shall and may execute such office or employment by a sufficient deputy

Officers
scrupling
oaths, &c.
allowed to
act by de-
puty.

WILLIAM
and MARY.
1689-1702.

Ministers
exempted
from penal-
ties.

by him to be provided, that shall comply with the laws on this behalf. Provided always the said deputy be allowed and approved by such person or persons, in such manner as such officer or officers respectively should by law have been allowed and approved.

8. And be it further enacted, that no person dissenting from the church of England, in holy orders or pretended holy orders, or pretending to holy orders, nor any preacher or teacher of any congregation of dissenting protestants, that shall make and subscribe the declaration aforesaid, and take the said oaths at the general or quarter sessions of the peace to be held for the county, town, parts, or division where such person lives, which court is hereby empowered to administer the same; and shall also declare his approbation of and subscribe the articles of religion mentioned in the statute made 13 Eliz. c. 12, except the thirty-fourth, thirty-fifth, and thirty-sixth, and these words of the twentieth article, *viz.* (the church hath power to decree rites or ceremonies, and authority in controversies of faith, and yet) shall be liable to any of the pains or penalties mentioned in the act made 17 Car. II. c. 2, nor the penalties mentioned in the aforesaid act made 22 Car. II. c. 1, for or by reason of such persons preaching at any meeting for the exercise of religion; nor to the penalty of one hundred pounds mentioned in an act made 13 and 14 Car. II. c. 4, for officiating in any congregation for the exercise of religion permitted and allowed by this act.

Taking the
oaths, &c. to
be registered.

Meeting
door to be
unlocked.

Baptists.

9. The making and subscribing the declaration and taking the oaths, and making the declaration of approbation, and subscription to the articles, to be entered of record in the court, for six-pence fee to the clerk of the peace. Provided that such person shall not at any time preach in any place, but with the doors not locked, barred, or bolted, as aforesaid.

10. And reciting that some dissenting protestants scruple the baptizing of infants, it is enacted that such persons are further relieved from subscribing part of the seven-and-twentieth article touching infant baptism.

11. And be it further enacted by the authority aforesaid, that every teacher or preacher in holy orders or

pretended holy orders, that is a minister, preacher, or teacher of a congregation, that shall take the oaths herein required, and make and subscribe the declaration aforesaid, and also subscribe such of the aforesaid articles of the church of England as are required by this act in manner aforesaid, shall be thenceforth exempted from serving upon any jury, or from being chosen or appointed to bear the office of churchwarden, overseer of the poor, or any other parochial or ward office, or other office in any hundred of any shire, city, town, parish, division, or wapentake.

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and MARY.
1689-1702.

Teachers exempt from offices.

12. Every justice of the peace may require any person that goes to any meeting for exercise of religion, to make and subscribe the declaration aforesaid, and also to take the oaths or declaration of fidelity hereinafter mentioned, and upon refusal shall commit such person to prison without bail or mainprize, and certify the name to the next general or quarter sessions of the peace, and such person then again refusing shall be recorded and taken for a popish recusant convict, and incur all the penalties and forfeitures of all the aforesaid laws.

Justices of peace may tender the oaths.

Penalty for refusing.

13. And whereas there are certain other persons, dissenters from the church of England, who scruple the taking of any oath : Be it enacted by the authority aforesaid, that every such person shall make and subscribe the aforesaid declaration, and also this declaration of fidelity following, *viz.*

Quakershow exempted.

I A. B. do sincerely promise and solemnly declare before God and the world, that I will be true and faithful to King William and Queen Mary. And I do solemnly profess and declare, that I do from my heart abhor, detest, and renounce as impious and heretical, that damnable doctrine and position, that princes excommunicated or deprived by the pope, or any authority of the see of Rome, may be deposed or murdered by their subjects or any other whatsoever ; and I do declare that no foreign prince, person, prelate, state, or potentate, hath or ought to have any power, jurisdiction, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within this realm.

Declaration.

And shall subscribe a profession of their christian belief in these words :

I A. B. profess faith in God the Father, and in Jesus Profession.

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and MARY.
1689-1702.

Christ his eternal Son, the true God ; and in the Holy Spirit, one God blessed for evermore : and do acknowledge the Holy Scriptures of the Old and New Testament to be given by divine inspiration.

Which declarations and subscription shall be made and entered of record at the general quarter sessions of the peace for the county, city, or place where every such person shall then reside ; and every such person that shall make and subscribe the two declarations and profession aforesaid, being thereunto required, shall be exempted from all the pains and penalties of all and every the aforementioned statutes made against popish recusants or protestant non-conformists, and also from the penalties of an act made 5 Eliz. c. 1, for or by reason of such persons not taking or refusing to take the oath mentioned in the said act ; and also from the penalties of an act made 13 and 14 Car. II. c. 1, and enjoy all other the benefits, privileges, and advantages under the like limitations, provisos, and conditions, which any other dissenters shall or ought to enjoy by virtue of this act.

Refusing
oaths.

14. Persons refusing to take the oaths, when tendered, shall not be admitted to subscribe the declarations, either before any justice, or at the quarter sessions, before or after any conviction of popish recusancy, unless such person do, within thirty-one days, produce two sufficient protestant witnesses, to testify upon oath that they believe him to be a protestant dissenter ; or a certificate under the hands of four protestants who are conformable to the church of England, or have taken the oaths and declaration ; and also produce a certificate under the hands and seals of six or more sufficient men of the congregation to which he belongs, owning him for one of them.

How purged
after refusal.

Recogni-
zance or
commital.

15. The justice of the peace shall meanwhile take a recognizance, with two sureties in fifty pounds, for his producing the certificate, &c. or commit him to prison, there to remain until he has produced such certificates, or two witnesses aforesaid.

Laws for di-
vine service
in force.

16. Provided always, and it is the true intent and meaning of this act, that all the laws made and provided for the frequenting of divine service on the Lord's day, commonly called Sunday, shall be still in force and executed

against all persons that offend against the said laws, except such persons come to some congregation or assembly of religious worship, allowed or permitted by this act.

WILLIAM
and MARY.
1689-1702.

17. This act not to extend to give any ease to any papist or popish recusant, or any person that shall deny in his preaching or writing the doctrine of the blessed Trinity, as it is declared in the aforesaid Articles of Religion.

Who shall
not derive
benefit from
this act.

18. Provided always, that if any person or persons after tenth day of June, shall willingly and of purpose, maliciously, or contemptuously come into any cathedral or parish church, chapel, or other congregation permitted by this act, and disquiet or disturb the same, or misuse any preacher or teacher, such person or persons, upon proof thereof before any justice of peace, by two or more sufficient witnesses, shall find two sureties to be bound by recognizance in the penal sum of fifty pounds; and in default of such sureties shall be committed to prison, there to remain till the next general or quarter sessions; and, upon conviction of the said offence at the said general or quarter sessions, shall suffer the pain and penalty of twenty pounds, to the use of the king's and queen's majesties, their heirs and successors.

Disturbers
of religious
worship, how
punished.

19. Provided always, that no congregation or assembly for religious worship shall be permitted or allowed by this act, until the place of such meeting shall be certified to the bishop of the diocese, or to the archdeacon of that archdeaconry, or to the justices of the peace at the general or quarter sessions of the peace for the county, city, or place in which such meeting shall be held, and registered in the said bishop's or archdeacon's court respectively, or recorded at the said general or quarter sessions; the register or clerk of the peace whereof is required to register the same, and to give certificate thereof for no greater fee or reward than six-pence.

Place for
worship to
be certified.

As many of the formal provisions of the above act are varied by that of Geo. III., their substance only has been given above. The same course of abridgement will be pursued with some other verbose modern acts which follow.

6 WILL. and MARY.—1694.

TRIENNIAL PARLIAMENTS ACT.

CHAP. II.

An Act for the frequent Meeting and Calling of
Parliaments.WILLIAM
and MARY.
1689-1702.Parliament
to be held
once in three
years.

Whereas by the ancient laws and statutes of this kingdom, frequent parliaments ought to be held ; and whereas frequent and new parliaments tend very much to the happy union and good agreement of the king and people : we your majesties' most loyal and obedient subjects, the lords spiritual and temporal and commons in this present parliament assembled, do most humbly beseech your most excellent majesties that it may be declared and enacted in this present parliament ; and it is hereby declared and enacted by the king's and queen's most excellent majesties, by and with the advice and consent of the lords spiritual and temporal and commons in this present parliament assembled, and by the authority of the same, that from henceforth a parliament shall be holden once in three years at the least.

Writs to be
issued out
once in three
years.

2. And be it further enacted by the authority aforesaid, that within three years at the furthest from and after the dissolution of this present parliament, and so from time to time for ever hereafter, within three years at the furthest from and after the determination of every other parliament, legal writs under the great seal shall be issued by directions of your majesties, your heirs and successors, for calling, assembling, and holding another new parliament.

No parlia-
ment to last
longer than
three years.

3. And be it further enacted by the authority aforesaid, that from henceforth no parliament whatsoever that shall at any time hereafter be called, assembled, or held, shall have any continuance longer than for three years only at

the furthest, to be accounted from the day on which by the writs of summons the said parliament shall be appointed to meet.

WILLIAM
and MARY.
1689-1702.

4. And be it further enacted by the authority aforesaid, that this present parliament shall cease and determine on the first day of November, which shall be in the year of our lord one thousand six hundred ninety-six, unless their majesties shall think fit to dissolve it sooner.

Present parliament to
cease 1st November 1696.

7 WILL. III.—1695.

TRIAL IN TREASON ACT.

CHAP. III.

An Act for regulating of Trials in Cases of Treason and Misprision of Treason.

Whereas nothing is more just and reasonable than that persons prosecuted for high treason and misprision of treason, whereby the liberties, lives, honour, estates, blood, and posterity of the subjects may be lost and destroyed, should be justly and equally tried, and that persons accused as offenders therein should not be debarred of all just and equal means for defence of their innocencies in such cases; in order thereunto, and for the better regulation of trials of persons prosecuted for high treason and misprision of such treason; Be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and the commons in this present parliament assembled, and by the authority of the same, that from and after the five-and-twentieth day of March in the year of our Lord one thousand six hundred ninety-six, all and every person and persons

WILL. III.
1689-1702.

Persons indicted for high treason to have a copy of the indictment,

and to make defence by counsel and witnesses.

Oath of two witnesses required.

whatsoever that shall be accused and indicted for high treason, whereby any corruption of blood may or shall be made to any such offender or offenders, or to any the heir or heirs of any such offender or offenders, or for misprision of such treason, shall have a true copy of the whole indictment, but not the names of the witnesses, delivered unto them, or any of them, five days at the least before he or they shall be tried for the same, whereby to enable them and any of them respectively to advise with counsel thereupon, to plead and make their defence, his or their attorney or attorneys, agent or agents, or any of them, requiring the same, and paying the officer his reasonable fees for writing thereof, not exceeding five shillings for the copy of every such indictment; And that every such person so accused and indicted, arraigned, or tried for any such treason as aforesaid, or for misprision of such treason, from and after the said time, shall be received and admitted to make his and their full defence by counsel learned in the law, and to make any proof that he or they can produce by lawful witness or witnesses, who shall then be upon oath for his and their just defence in that behalf; And in case any person or persons so accused or indicted shall desire counsel, the court before whom such person or persons shall be tried, or some judge of that court, shall and is hereby authorized and required immediately, upon his or their request, to assign to such person and persons such and so many counsel, not exceeding two, as the person or persons shall desire, to whom such counsel shall have free access at all seasonable hours; any law or usage to the contrary notwithstanding.

2. And be it further enacted, that from and after the said five-and-twentieth day of March in the year of our Lord one thousand six hundred ninety-six, no person or persons whatsoever shall be indicted, tried, or attainted of high treason, whereby any corruption of blood may or shall be made to any such offender or offenders, or to any the heir or heirs of any such offender or offenders, or of misprision of such treason, but by and upon the oaths and testimony of two lawful witnesses, either both of them to the same overt act, or one of them to one and the other of them to another overt act of the same treason; unless

the party indicted and arraigned, or tried, shall willingly, without violence, in open court confess the same, or shall stand mute, or refuse to plead, or in cases of high treason shall peremptorily challenge above the number of thirty-five of the jury; any law, statute, or usage to the contrary notwithstanding.

WILL. III.
1689-1702.

3. Provided always, that any person or persons being indicted as aforesaid, for any of the treasons or misprisions of the treasons aforesaid, may be outlawed, and thereby attainted of or for any of the said offences of treason or misprision of treason; and in cases of the high treasons aforesaid, where by the law, after such outlawry, the party outlawed may come in and be tried, he shall upon such trial have the benefit of this act.

Outlawry.

4. And be it further enacted and declared by the authority aforesaid, that if two or more distinct treasons of divers heads or kinds shall be alledged in one bill of indictment, one witness produced to prove one of the said treasons, and another witness produced to prove another of the said treasons, shall not be deemed or taken to be two witnesses to the same treason, within the meaning of this act.

What not to
be deemed
two witnesses.

5. And to the intent that the terror and dread of such criminal accusations may in some reasonable time be removed, be it further enacted by the authority aforesaid, that from and after the said five-and-twentieth day of March in the year of our Lord one thousand six hundred ninety-six, no person or persons whatsoever shall be indicted, tried, or prosecuted for any such treason as aforesaid, or for misprision of such treason, that shall be committed or done within the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, after the said five-and-twentieth day of March in the year of our Lord one thousand six hundred ninety-six, unless the same indictment be found by a grand jury within three years next after the treason or offence done or committed.

No person to
be indicted
unless within
in 3 years.

6. And that no person or persons shall be prosecuted for any such treason, or misprision of such treason, committed or done, or to be committed or done, within the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, before the said five-and-twentieth day

No prosecution
unless
indicted
within three
years.

WILL. III.
1689-1702.

Exception.

Copies of the
panel.

Process to
compel wit-
nesses.

No evidence
of acts not
laid in the
indictment.

No indict-
ment to be
quashed, &c.
unless before
evidence
given ;

and not to
stay judg-
ment.

of March, unless he or they shall be indicted thereof within three years after the said five-and-twentieth day of March ; always provided and excepted, that if any person or persons whatsoever shall be guilty of designing, endeavouring, or attempting any assassination on the body of the king, by poison or otherwise, such person or persons may be prosecuted at any time, notwithstanding the aforesaid limitation.

7. And that all and every person and persons who shall be accused, indicted, and tried for such treason as aforesaid, or for misprision of such treason, after the said five-and-twentieth day of March in the year of our Lord one thousand six hundred ninety-six, shall have copies of the panel of the jurors who are to try them, duly returned by the sheriff and delivered unto them and every of them so accused and indicted respectively, two days at the least before he or they shall be tried for the same ; and that all persons so accused and indicted for any such treason as aforesaid, shall have the like process of the court where they shall be tried, to compel their witnesses to appear for them at any such trial or trials, as is usually granted to compel witnesses to appear against them.

8. And be it further enacted, that no evidence shall be admitted or given of any overt act that is not expressly laid in the indictment against any person or persons whatsoever.

9. Provided also, and be it enacted by the authority aforesaid, that no indictment for any of the offences aforesaid, nor any process or return thereupon, shall be quashed on the motion of the prisoner or his counsel for mis-writing, mis-spelling, false or improper Latin, unless exception concerning the same be taken and made in the respective court where such trial shall be, by the prisoner or his counsel assigned, before any evidence given in open court upon such indictment ; nor shall any such mis-writing, mis-spelling, false or improper Latin, after conviction on such indictment, be any cause to stay or arrest judgment thereupon : but nevertheless any judgment given upon such indictment shall and may be liable to be reversed upon a writ of error, in the same manner and no other than as if this act had not been made.

10. And whereas by the good laws of this kingdom in

cases of trials of commoners for their lives, a jury of twelve freeholders must all agree in one opinion before they can bring a verdict, either for acquittal or condemnation of the prisoner :

WILL. III.
1689-1702.

11. And whereas upon the trials of peers or peeresses, a major vote is sufficient, either to acquit or condemn ; be it further enacted by the authority aforesaid, that upon the trial of any peer or peeress, either for treason or misprision, all the peers who have a right to sit and vote in parliament shall be duly summoned twenty days at least before every such trial, to appear at every such trial ; and that every peer so summoned and appearing at such trial shall vote in the trial of such peer or peeress so to be tried, every such peer first taking the oaths mentioned in an act of parliament made in the first year of the reign of King William and Queen Mary, intituled 'An Act for abrogating the oaths of supremacy and allegiance, and appointing other oaths ;' and also every such peer subscribing and audibly repeating the declaration mentioned in 'An Act for the more effectual preserving the king's person and government, by disabling papists from sitting in either house of parliament,' and made in the thirtieth year of the reign of the late King Charles the Second.

Peers to be
summoned
twenty days.

12. Provided always, that neither this act, nor anything therein contained, shall any ways extend to or be construed to extend to any impeachment or other proceedings in parliament in any kind whatsoever.

Impeach-
ment in par-
liament ex-
cepted.

13. Provided also that this act, nor anything therein contained, shall any ways extend to any indictment of high treason, nor to any proceedings thereupon, for counterfeiting his majesty's coin, his great seal, or privy seal, his sign manual, or privy signet.

Counterfeit-
ing coin, &c.

12 and 13 WILL. III.—1700.

ACT OF SETTLEMENT.

CHAP. II.

An Act for the further Limitation of the Crown,
and better securing the Rights and Liberties of
the Subject.

WILL. III.
1689-1702.

Whereas in the first year of the reign of your majesty and of our late most gracious sovereign lady Queen Mary (of blessed memory) an act of parliament was made, intituled 'An Act for declaring the rights and liberties of the subject, and for settling the succession of the crown,' wherein it was (amongst other things) enacted, established, and declared, that the crown and regal government of the kingdoms of England, France, and Ireland, and the dominions thereunto belonging, should be and continue to your majesty and the said late queen, during the joint lives of your majesty and the said queen, and to the survivor; and that after the decease of your majesty and of the said queen, the said crown and regal government should be and remain to the heirs of the body of the said late queen; and for default of such issue, to her royal highness the Princess Anne of Denmark, and the heirs of her body; and for default of such issue, to the heirs of the body of your majesty: And it was thereby further enacted, that all and every person and persons that then were, or afterwards should be reconciled to, or should hold communion with, the see or church of Rome, or should profess the popish religion, or marry a papist, should be excluded, and are by that act made for ever incapable to inherit, possess, or enjoy the crown and government of this realm and Ireland, and the dominions thereunto belonging, or any part of the same, or to have, use, or exercise any regal power, authority, or jurisdiction within the same; and

in all and every such case and cases the people of these realms shall be and are thereby absolved of their allegiance : and that the said crown and government shall from time to time descend to and be enjoyed by such person or persons, being protestants, as should have inherited and enjoyed the same, in case the said person or persons so reconciled, holding communion, professing, or marrying as aforesaid, were naturally dead : After the making of which statute, and the settlement therein contained, your majesty's good subjects, who were restored to the full and free possession and enjoyment of their religion, rights, and liberties by the providence of God giving success to your majesty's just undertakings and unwearied endeavours for that purpose, had no greater temporal felicity to hope or wish for, than to see a royal progeny descending from your majesty, to whom (under God) they owe their tranquillity, and whose ancestors have for many years been principal assertors of the reformed religion and the liberties of Europe, and from our said most gracious sovereign lady, whose memory will always be precious to the subjects of these realms : And it having since pleased Almighty God to take away our said sovereign lady, and also the most hopeful Prince William duke of Gloucester (the only surviving issue of her royal highness the Princess Anne of Denmark) to the unspeakable grief and sorrow of your majesty and your said good subjects, who, under such losses, being sensibly put in mind that it standeth wholly in the pleasure of Almighty God to prolong the lives of your majesty and of her royal highness, and to grant to your majesty, or to her royal highness, such issue as may be inheritable to the crown and regal government aforesaid, by the respective limitations in the said recited act contained, do constantly implore the divine mercy for those blessings : And your majesty's said subjects having daily experience of your royal care and concern for the present and future welfare of these kingdoms, and particularly recommending from your throne a further provision to be made for the succession of the crown in the protestant line, for the happiness of the nation and the security of our religion ; and it being absolutely necessary for the safety, peace, and quiet of this

WILL. III.
1689-1702.

WILL. III.
1689-1702.

Limitation
to the Prin-
cess Sophia,

after the king
and Princess
Anne, and
their issue;

and to her
heirs, being
protestants.

realm, to obviate all doubts and contentions in the same, by reason of any pretended title to the crown, and to maintain a certainty in the succession thereof, to which your subjects may safely have recourse for their protection, in case the limitations in the said recited act should determine: Therefore, for a further provision of the succession of the crown in the protestant line, Be it enacted, &c. that the most excellent Princess Sophia, electress and dutchess dowager of Hanover, daughter of the most excellent Princess Elizabeth, late queen of Bohemia, daughter of our late sovereign lord King James the First of happy memory, be and is hereby declared to be the next in succession in the protestant line, to the imperial crown and dignity of the said realms of England, France, and Ireland, with the dominions and territories thereunto belonging, after his majesty and the Princess Anne of Denmark, and in default of issue of the said Princess Anne and of his majesty respectively: And that from and after the deceases of his said majesty our now sovereign lord, and of her royal highness the Princess Anne of Denmark, and for default of issue of the said Princess Anne and of his majesty respectively, the crown and regal government of the said kingdoms of England, France, and Ireland, and of the dominions thereunto belonging, with the royal state and dignity of the said realms, and all honours, stiles, titles, regalities, prerogatives, powers, jurisdictions, and authorities to the same belonging and appertaining, shall be, remain, and continue to the said most excellent Princess Sophia, and the heirs of her body, being protestants: And thereunto the said lords spiritual and temporal and commons shall and will, in the name of all the people of this realm, most humbly and faithfully submit themselves their heirs and posterities; and do faithfully promise that after the deceases of his majesty and her royal highness, and the failure of the heirs of their respective bodies, to stand to, maintain, and defend the said Princess Sophia and the heirs of her body being protestants, according to the limitation and succession of the crown in this act specified and contained, to the utmost of their powers, with their lives and estates, against all persons whatsoever that shall attempt anything to the contrary.

2. Provided always and it is hereby enacted, that all and every person and persons who shall or may take or inherit the said crown, by virtue of the limitation of this present act, and is, are, or shall be reconciled to, or shall hold communion with the see or church of Rome, or shall profess the popish religion, or shall marry a papist, shall be subject to such incapacities as in such case or cases are by the said recited act provided, enacted, and established; and that every king and queen of this realm, who shall come to and succeed in the imperial crown of this kingdom, by virtue of this act, shall have the coronation oath administred to him, her, or them, at their respective coronations, according to the act of parliament made in the first year of the reign of his majesty and the said late Queen Mary, intituled 'An Act for establishing the coronation oath,' and shall make, subscribe, and repeat the declaration in the act first above referred to, as thereby prescribed.

WILL. III.
1689-1702.

Papists incapacitated.

Coronation
oath.

Declaration.

3. And whereas it is requisite and necessary that some further provision be made for securing our religion, laws, and liberties from and after the death of his majesty and the Princess Anne of Denmark, and in default of issue of the body of the said princess and of his majesty respectively; Be it enacted, &c.

Further liberties secured.

That whosoever shall hereafter come to the possession of this crown, shall join in communion with the church of England, as by law established.

That in case the crown and imperial dignity of this realm shall hereafter come to any person, not being a native of this kingdom of England, this nation be not obliged to engage in any war for the defence of any dominions or territories which do not belong to the crown of England, without the consent of parliament.

That no person who shall hereafter come to the possession of this crown shall go out of the dominions of England, Scotland, or Ireland, without consent of parliament.

That from and after the time that the further limitation by this act shall take effect, all matters and things relating to the well governing of this kingdom, which are properly cognizable in the privy council by the laws and customs

WILL. III.
1689-1702.

of this realm, shall be transacted there, and all resolutions taken thereupon shall be signed by such of the privy council as shall advise and consent to the same.

That after the said limitation shall take effect as aforesaid, no person born out of the kingdoms of England, Scotland, or Ireland, or the dominions thereunto belonging (although he be naturalized or made a denizen, except such as are born of English parents) shall be capable to be of the privy council, or a member of either house of parliament, or to enjoy any office or place of trust, either civil or military, or to have any grant of lands, tenements, or hereditaments from the crown, to himself or to any other or others in trust for him.

That no person who has an office or place of profit under the king, or receives a pension from the crown, shall be capable of serving as a member of the house of commons.

That after the said limitation shall take effect as aforesaid, judges' commissions be made *quamdiu se bene gesserint*, and their salaries ascertained and established; but upon the address of both houses of parliament it may be lawful to remove them.

That no pardon under the great seal of England be pleadable to an impeachment by the commons in parliament.

4. And whereas the laws of England are the birth-right of the people thereof, and all the kings and queens who shall ascend the throne of this realm ought to administer the government of the same according to the said laws, and all their officers and ministers ought to serve them respectively according to the same; the said lords spiritual and temporal and commons do therefore further humbly pray, that all the laws and statutes of this realm for securing the established religion, and the rights and liberties of the people thereof, and all other laws and statutes of the same now in force, may be ratified and confirmed, and the same are by his majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, and by authority of the same, ratified and confirmed accordingly.

ANNE, GEORGE THE FIRST,
AND
GEORGE THE SECOND.

1702-1760.

THE revolution of 1688 having so recently placed the civil liberties of England on a secure basis, scarcely any measure of sufficiently prominent importance for extraction occurs during these reigns. The law of treason, it may be remarked, was improved by a provision in 7 Ann. cap. 21, which required that lists of the witnesses and of the jury should be delivered, with the copy of the indictment, to the prisoner ten days before trial, in the presence of two or more witnesses. 1702-1760.

Religious liberty still made no progress; or rather, in a legislative point of view, showed great tendency to retrograde. The Whig party made a scandalous compact with Lord Nottingham; the price of which on their part was the bartering away of the liberties of their natural allies the nonconformists, against whom they concurred in passing the act 10 Ann. cap. 7 against "occasional conformity," and another still worse, 12 Ann. cap. 7, which confirmed and even extended one of Charles the Second's worst statutes against

1702-1760.

teachers and schoolmasters. The political object, however, having been answered, the same party were glad subsequently to redeem their credit in some measure by repealing these two disgraceful acts by 5 Geo. I. c. 9.

During the reign of George the First, under the pressure, real or imaginary, of a particular political emergency, parliaments were made septennial by a measure which nothing but the most vital necessity could justify. Out of this provision have arisen greater importance and wider extensions of the enactments with regard to the disqualification of placemen, &c. and the vacating of their seats. These are often talked of as important safeguards of the constitution; but the practical inconveniences at which they are levelled appear to arise mainly out of such a prolongation of the member's representative character, as renders it expedient to give his constituents a new power of control over his conduct. In practice, the duration of parliaments has been much shorter than the term fixed; but this very circumstance is connected with a most important advantage which the septennial act has given to the crown,—that of allowing it a wide range within which to chuse, with a view to its own interests, a favourable opportunity for dissolution.

1 GEO. I.—1715.

THE SEPTENNIAL ACT.

STAT. 2. CHAP. XXXVIII.

An Act for enlarging the time of continuance of parliaments, appointed by an Act made in the sixth year of the reign of King William and Queen Mary, intituled, An Act for the frequent meeting and calling of Parliaments.

WHEREAS in and by an act of parliament made in the sixth year of the reign of their late majesties King William and Queen Mary (of ever blessed memory) intituled, 'An Act for the frequent meeting and calling of parliaments:' it was among other things enacted that from thenceforth no parliament whatsoever that should at any time then after be called, assembled, or held, should have any continuance longer than for three years only at the furthest, to be accounted from the day on which by the writ of summons the said parliament should be appointed to meet: And whereas it has been found by experience, that the said clause hath proved very grievous and burthensome, by occasioning much greater and more continued expences in order to elections of members to serve in parliament, and more violent and lasting heats and animosities among the subjects of this realm, than were ever known before the said clause was enacted; and the said provision, if it should continue, may probably at this juncture, when a restless and popish faction are designing and endeavouring to renew the rebellion within this kingdom and an invasion from abroad, be destructive to the peace and security of the government; Be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and commons in parliament assembled, and by the authority of the same,

1702-1760.

1702-1760.

that this present parliament and all parliaments that shall at any time hereafter be called, assembled, or held, shall and may respectively have continuance for seven years and no longer, to be accounted from the day on which by the writ of summons this present parliament hath been, or any future parliament shall be appointed to meet, unless this present, or any such parliament hereafter to be summoned, shall be sooner dissolved by his majesty, his heirs or successors.

GEORGE THE THIRD.

1760-1820.

SOCIETY made an immense progress during this long reign ; public opinion was greatly strengthened in its influence ; religious liberty became gradually better understood, and several acts passed indicative of a gradual advance towards the establishment of more just and liberal principles.

Geo. III.
1760-1820.

The constitutional enactments which will be here extracted will commence with Mr. Fox's celebrated libel act. The other selections all concern the advancement of religious freedom. Several other acts were passed for ameliorating the political situation of the Roman catholics, which it is not necessary to quote here ;—the great measure of relief to them coming in its proper place in the next reign. Three acts, all of considerable importance to protestant dissenters, are subjoined.

The first of these, 19 Geo. III. c. 44, involves an important principle, which ought perhaps to have rendered the next unnecessary ; inasmuch as it plainly disavows all interference with the peculiar views and doctrines adopted by different divisions of christians, and recognizes a *general* profession of catholic belief in the holy scriptures as all that the state pretends to concern itself about.

GEO. III.
1760-1820.

The second, 53 Geo. III. c. 160, was however found necessary, in order expressly to carry forward the principle of the first, and directly to repeal a particular statutory repression of one doctrinal heresy. It would now appear that all legal interference with or cognizance of heresy, or diversity of christian opinion, is abolished. In fact, with the exception of the act now repealed, such interference ceased by the abolition of the writ *De hæretico comburendo* in the reign of Charles the Second, for heresy never was an offence at the common law.

The third act, 53 Geo. III. c. 155, is an amendment and enlargement of the provisions of the original Toleration Act of William and Mary. This improvement of the law arose out of what was considered an officious attempt, on the part of Lord Sidmouth, to fetter and contract the existing liberties of protestant dissenters.

32 GEO. III.—1792.

THE LIBEL ACT.

CHAP. LX.

An Act to remove doubts respecting the Functions of Juries in cases of Libel.

WHEREAS doubts have arisen whether on the trial of an indictment or information for the making or publishing any libel, where an issue or issues are joined between the king and the defendant or defendants, on the plea of not guilty pleaded, it be competent to the jury impannelled to try the same to give their verdict upon the whole matter in issue: Be it therefore declared and enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present parliament assembled, and by the authority of the same, that on every such trial, the jury sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue upon such indictment or information; and shall not be required or directed by the court or judge before whom such indictment or information shall be tried, to find the defendant or defendants guilty, merely on the proof of the publication by such defendant or defendants of the paper charged to be a libel, and of the sense ascribed to the same in such indictment or information.

GEO. III.
1760-1820.Jury may
give a general
verdict upon
the whole
matter put in
issue.

2. Provided always, that on every such trial the court or judge before whom such indictment or information shall be tried, shall according to their or his discretion, give their or his opinion and directions to the jury on the matter in issue between the king and the defendant or defendants, in like manner as in other criminal cases.

Opinion of
the court.

3. Provided also, that nothing herein contained shall extend, or be construed to extend, to prevent the jury

Special ver-
dict.

GEO. III.
1760-1820.

Arrest of
judgement.

from finding a special verdict in their discretion, as in other criminal cases.

4. Provided also, that in case the jury shall find the defendant or defendants guilty, it shall and may be lawful for the said defendant or defendants to move in arrest of judgement on such ground and in such manner as by law he or they might have done before the passing of this act; anything herein contained to the contrary notwithstanding.

19 GEO. III.—1779.

DISSENTING TEACHERS' RELIEF ACT.

CHAP. XLIV.

An Act for the further Relief of Protestant Dissenting Ministers and Schoolmasters.

Whereas by an act made in the first year of the reign of King William and Queen Mary, intituled 'An Act for exempting their majesties' protestant subjects dissenting from the church of England from the penalties of certain laws,' persons dissenting from the church of England in holy orders or pretended holy orders, or pretending to holy orders, and preachers or teachers of any congregation of dissenting protestants, are required, in order to be entitled to certain exemptions, benefits, privileges, and advantages, to declare their approbation of, and to subscribe the Articles of Religion mentioned in the statute made in the thirteenth year of the reign of Queen Elizabeth (except as in the said act made in the first year of the reign of King William and Queen Mary is excepted): And whereas many such persons scruple to declare their approbation of, and to subscribe the said articles not excepted as aforesaid:

For giving ease to such scrupulous persons in the exercise of religion ; Be it enacted, &c. that every person dissenting from the church of England, in holy orders or pretended holy orders, or pretending to holy orders, being a preacher or teacher of any congregation of dissenting protestants, who, if he scruple to declare and subscribe as aforesaid, shall take the oaths and make and subscribe the declaration against popery required by the said act made in the first year of the reign of King William and Queen Mary, to be taken, made, and subscribed by protestant dissenting ministers, and shall also make and subscribe a declaration in the words following :

GEO. III.
1760-1820.

Protestant
dissenting
ministers ta-
king oaths
and sub-
scribing de-
claration.

“ I A.B. do solemnly declare in the presence of Almighty God, that I am a christian and a protestant, and as such that I believe that the scriptures of the Old and New Testament as commonly received among protestant churches do contain the revealed will of God ; and that I do receive the same as the rule of my doctrine and practice ;” shall be, and every such person is hereby declared to be, entitled to all the exemptions, benefits, privileges, and advantages, granted to protestant dissenting ministers by the said act made in the first year of the reign of King William and Queen Mary, and by an act made in the tenth year of the reign of Queen Anne, intituled ‘An Act for preserving the protestant religion, by better securing the church of England as by law established, and for confirming the toleration granted to protestant dissenters by an act, intituled An Act for exempting their majesties’ protestant subjects dissenting from the church of England from the penalties of certain laws, and for supplying the defects thereof, and for the further securing the protestant succession by requiring the practisers of the law in North Britain to take the oaths and subscribe the declaration therein mentioned ;’ And the justices of the peace at the general sessions of the peace to be holden for the county or place where any protestant dissenting minister shall live, are hereby required to tender and administer the said last-mentioned declaration to such minister, upon his offering himself to make and subscribe the same, and thereof to keep a register ; And such minister shall not give or pay as a fee or reward to any officer or officers belonging

Entitled to
privileges of
1 W. & M.s.
1, c. 18, and
10 Ann., c. 2.

GEO. III.
1760-1820.

Exempted
from serving
in militia and
from punish-
ment by Act
of Unifor-
mity, &c.

Dissenters
qualifying
allowed to
instruct
youth.

No dissenter
to hold mas-
tership of
any college,
&c.

to the court aforesaid, above the sum of six-pence for his or their entry of such minister's making and subscribing the said last-mentioned declaration, and taking the oaths and making and subscribing the declaration against popery, required by the said act made in the first year of the reign of King William and Queen Mary to be taken, made, and subscribed by protestant dissenting ministers, nor above the sum of six-pence for any certificate thereof, to be made out and signed by the officer or officers of the said court; And every such person qualifying himself as aforesaid shall be exempted from serving in the militia of this kingdom, and shall also be exempted from any imprisonment, or other punishment by virtue of an act made in the thirteenth and fourteenth years of the reign of King Charles the Second, intituled 'An Act for the uniformity of public Prayers and administration of Sacraments and other rites and ceremonies, and for establishing the form of making, ordaining, and consecrating bishops, priests, and deacons in the church of England;' or by an act made in the fifteenth year of the same reign, intituled 'An Act for relief of such persons as by sickness or other impediment were disabled from subscribing the declaration in the act of uniformity, and explanation of part of the said act,' for preaching or officiating in any congregation of protestant dissenters for the exercise of religion permitted and allowed by law.

2. And be it further enacted, that no dissenting minister, nor any other protestant dissenting from the church of England, who shall take the aforesaid oaths, and make and subscribe the abovementioned declaration against popery, and the declaration herein before mentioned, shall be prosecuted in any court whatsoever, for teaching and instructing youth as a tutor or schoolmaster; any law or statute to the contrary notwithstanding.

8. Provided always, that nothing in this act contained shall extend to the enabling of any person dissenting from the church of England to obtain or hold the mastership of any college or school of royal foundation, or of any other endowed college or school for the education of youth, unless the same shall have been founded since the first year of the reign of their late majesties King William and

Queen Mary, for the immediate use and benefit of protestant dissenters.

Geo. III.
1760-1820.

4. And whereas it hath been doubted whether the said act, made in the first year of the reign of King William and Queen Mary be a public or private act; Be it enacted and declared that the said act, and also this present act, shall be adjudged, deemed, and taken to be public acts; and shall be judicially taken notice of as such by all judges, justices, and other persons whomsoever, without specially pleading them or either of them.

1 W. and M.
s. 1, c. 18, and
this act to be
deemed public
acts.

53 Geo. III.—1813.

UNITARIAN RELIEF ACT.

CHAP. CLX.

An Act to relieve persons who impugn the Doctrine of the Holy Trinity from certain Penalties.

Whereas in the nineteenth year of his present majesty an act was passed, intituled 'An Act for the further relief of protestant dissenting ministers and schoolmasters;' and it is expedient to enact as hereinafter provided:

Be it therefore enacted, that so much of an act passed in the first year of the reign of King William and Queen Mary, intituled 'An Act for exempting his majesty's protestant subjects dissenting from the church of England from the penalties of certain laws,' as provides that that act, or anything therein contained, should not extend or be construed to extend to give any ease, benefit, or advantage to persons denying the Trinity as therein mentioned, be and the same is hereby repealed.

Exception
in Toleration
Act repealed.

2. And be it further enacted that the provisions of

GEO. III. another act passed in the ninth and tenth years of the
1760-1820. reign of King William, intituled 'An Act for the more
 Provisions of effectual suppressing blasphemy and profaneness,' so far
 Blasphemy as the same relate to persons denying as therein mentioned
 Act. respecting the Holy Trinity, be and the same are hereby
 repealed.

Scotch acts 3. And whereas it is expedient to repeal an act, passed
 against blas- in the parliament of Scotland, in the first parliament of
 phemy re- King Charles the Second, intituled 'An Act against the
 pealed. crime of blasphemy;' and another act passed in the parlia-
 ment of Scotland, in the first parliament of King William,
 intituled 'An Act against blasphemy;' which acts respect-
 ively ordain the punishment of death; Be it therefore
 enacted that the said acts, and each of them, shall be and
 the same are and is hereby repealed.

52 GEO. III.—1812.

TOLERATION AMENDMENT ACT.

CHAP. CLV.

An Act to repeal certain Acts and amend other
 Acts relating to Religious Worship and As-
 semblies, and persons teaching or preaching
 therein.

Whereas it is expedient that certain acts of parliament
 made in the reign of his late majesty King Charles the
 Second, relating to nonconformists and conventicles and
 refusing to take oaths, should be repealed, and that the
 laws relating to certain congregations and assemblies for
 religious worship, and persons teaching, preaching, or of-

ficiating therein and resorting thereto, should be amended : GEO. III.
1760-1820.
 Be it therefore enacted, &c. that an act of parliament made Certain acts
repealed.
 13 and 14 Car. II. c. 1, and another act of parliament made 22
 17 Car. II. c. 2, and another act of parliament made 22
 Car. II. c. 1, shall be and the same are hereby repealed.

2. And that from and after the passing of this act, no Places of re-
ligious wor-
ship certified
and register-
ed.
 congregation or assembly for religious worship of pro-
 testants (at which there shall be present more than twenty
 persons besides the immediate family and servants of the
 person in whose house, or upon whose premises, such
 meeting, congregation, or assembly shall be had), shall
 be permitted or allowed, unless and until the place of such
 meeting, if the same shall not have been duly certified and
 registered under any former act or acts of parliament re-
 lating to registering places of religious worship, shall have
 been, or shall be certified to the bishop of the diocese, or
 to the archdeacon of the archdeaconry, or to the justices
 of the peace at the general or quarter sessions of the peace
 for the county, riding, division, city, town, or place, in
 which such meeting shall be held ; And all places of meet-
 ing which shall be so certified to the bishop's or arch-
 deacon's court, shall be returned by such court once in
 each year to the quarter sessions of the county, riding,
 division, city, town, or place ; And all places of meeting
 which shall be so certified to the quarter sessions of the
 peace shall be also returned once in each year to the bi-
 shop or archdeacon ; And all such places shall be registered
 in the said bishop's or archdeacon's court respectively,
 and recorded at the said general or quarter sessions ; the
 registrar or clerk of the peace whereof, respectively, is
 hereby required to register and record the same ; And the
 bishop or registrar or clerk of the peace to whom any
 such place of meeting shall be certified under this act,
 shall give a certificate thereof to such person or persons
 as shall request or demand the same, for which there shall
 be no greater fee nor reward taken than two shillings and
 six-pence ; And every person who shall knowingly permit
 or suffer any such congregation or assembly as aforesaid
 to meet in any place occupied by him, until the same shall
 have been so certified as aforesaid, shall forfeit for every
 time any such congregation or assembly shall meet con-

Geo. III.
1760-1820.

Preaching,
without con-
sent of occu-
piers.

Preachers
and resorters
to assemblies
so certified,
exempt from
penalties.

Oaths, &c.
taken by
preachers
&c. when
required by
magistrate.

trary to the provisions of this act, a sum not exceeding twenty pounds nor less than twenty shillings, at the discretion of the justices who shall convict for such offence.

3. Provided always and be it further enacted, that every person who shall teach or preach in any congregation or assembly as aforesaid, in any place without the consent of the occupier thereof, shall forfeit for every such offence any sum not exceeding thirty pounds nor less than forty shillings, at the discretion of the justices who shall convict for such offence.

4. And be it further enacted, that from and after the passing of this act, every person who shall preach or teach at, or officiate in, or shall resort to any congregation or congregations, assembly or assemblies for religious worship of protestants, whose place of meeting shall be duly certified according to the provisions of this act, or any other act or acts of parliament relating to the certifying and registering of places of religious worship, shall be exempt from all such pains and penalties under any act or acts of parliament relating to religious worship, as any person who shall have taken the oaths and made the declaration prescribed by or mentioned in an act made in the first year of the reign of King William and Queen Mary, intituled 'An Act for exempting their majesties' protestant subjects dissenting from the church of England, from the penalties of certain laws,' or any act amending the said act, is by law exempt, as fully and effectually as if all such pains and penalties, and the several acts enforcing the same, were recited in this act, and such exemptions as aforesaid were severally and separately enacted in relation thereto.

5. Provided always, that every person not having taken the oaths and subscribed the declaration hereinafter specified, who shall preach or teach at any place of religious worship certified in pursuance of the directions of this act, shall, when thereto required by any one justice of the peace by any writing under his hand or signed by him, take and make, and subscribe in the presence of such justice of the peace, the oaths and declarations specified and contained in an act passed in the nineteenth year of the reign of his majesty King George the Third, intituled 'An Act for the

further relief of protestant dissenting ministers and school-masters ;' And no such person who, upon being so required to take such oaths and make such declaration as aforesaid, shall refuse to attend the justice requiring the same, or to take and make, and subscribe, such oaths and declaration as aforesaid, shall be thereafter permitted or allowed to teach or preach in any such congregation or assembly for religious worship, until he shall have taken such oaths and made such declaration as aforesaid, on pain of forfeiting for every time he shall so teach or preach, any sum not exceeding ten pounds nor less than ten shillings, at the discretion of the justice convicting for such offence.

Geo. III.
1760-1820.

6. Provided always, that no person shall be required by any justice of the peace to go to any greater distance than five miles from his own home, or from the place where he shall be residing at the time of such requisition, for the purpose of taking such oaths as aforesaid.

Not compelled to go more than five miles.

7. And be it further enacted, that it shall be lawful for any of his majesty's protestant subjects to appear before any one justice of the peace, and to produce to such justice of the peace a printed or written copy of the said oaths and declaration, and to require such justice to administer such oaths and to tender such declaration to be made, taken, and subscribed by such person ; And thereupon it shall be lawful for such justice, and he is hereby authorized and required to administer such oaths and to tender such declaration to the person requiring to take and make and subscribe the same ; and such person shall take and make and subscribe such oaths and declaration in the presence of such justice accordingly ; And such justice shall attest the same to be sworn before him, and shall transmit or deliver the same to the clerk of the peace for the county, riding, division, city, town, or place for which he shall act as such justice of the peace, before or at the next general or quarter sessions of the peace for such county, riding, division, city, town, or place.

Who may require justice to administer oaths, &c.

8. And be it further enacted, that every justice of the peace before whom any person shall make and take and subscribe such oaths and declaration as aforesaid, shall forthwith give to the person having taken, made, and subscribed such oaths and declaration, a certificate thereof

Certificate of oath.

GEO. III.
1760-1820.

under the hand of such justice, in the form following :
(that is to say,)

“ I A.B. one of his majesty’s justices of the peace for the county [riding, division, city, or town, or place, as the case may be] of _____ do hereby certify, that C.D. of, &c. [describing the christian and surname, and place of abode of the party] did this day appear before me, and did make and take and subscribe the several oaths and declaration specified in an act made in the fifty-second year of the reign of King George the Third, intituled [set forth the title of this act]. Witness my hand this _____ day of _____ one thousand eight hundred and _____ .”

Certificate
evidence.

And for making and signing of which certificate, where the said oaths and declaration are taken and made on the requisition of the party taking and making the same, such justice shall be entitled to demand and have a fee of two shillings and six-pence and no more ; and such certificate shall be conclusive evidence that the party named therein has made and taken the oaths and subscribed the declaration in manner required by this act.

Exemption
from offices
and militia.

9. And be it further enacted, that every person who shall teach or preach in any such congregation or assembly, or congregations or assemblies as aforesaid, who shall employ himself solely in the duties of a teacher or preacher and not follow or engage in any trade or business or other profession, occupation, or employment for his livelihood, except that of a schoolmaster, and who shall produce a certificate of some justice of the peace of his having taken and made and subscribed the oaths and declaration aforesaid, shall be exempt from the civil services and offices specified in the said recited act passed in the first year of King William and Queen Mary, and from being ballotted to serve, and from serving in the militia or local militia of any county, town, parish, or place in any part of the United Kingdom.

False certifi-
cate.

10. Penalty of fifty pounds for producing false certificate.

Doors not to
be bolted or
barred.

11. And be it further enacted, that no meeting, assembly, or congregation of persons for religious worship, shall be had in any place with the door locked, bolted,

or barred, or otherwise fastened, so as to prevent any persons entering therein during the time of any such meeting, assembly, or congregation; and the person teaching or preaching at such meeting, assembly, or congregation, shall forfeit for every time any such meeting, assembly, or congregation shall be held with the door locked, bolted, barred, or otherwise fastened as aforesaid, any sum not exceeding twenty pounds nor less than forty shillings, at the discretion of the justices convicting for such offence.

GEO. III.
1760-1820.

12. And be it further enacted, that if any person or persons at any time after the passing of this act, do and shall wilfully and maliciously, or contemptuously disquiet or disturb any meeting, assembly, or congregation of persons assembled for religious worship, permitted or authorized by this act, or any former act or acts of parliament, or shall in any way disturb, molest, or misuse any preacher, teacher, or person officiating at such meeting, assembly, or congregation, or any person or persons there assembled, such person or persons so offending, upon proof thereof before any justice of the peace, by two or more credible witnesses, shall find two sureties to be bound by recognizances in the penal sum of fifty pounds, to answer for such offence, and in default of such sureties shall be committed to prison, there to remain till the next general or quarter sessions; and upon conviction of the said offence at the said general or quarter sessions, shall suffer the pain and penalty of forty pounds.

Disturbing
religious
assemblies.

13. This act not to affect the celebration of divine service according to the rites of the church, by ministers of the said church, nor to affect the jurisdiction of the archbishops, &c. over the church.

Jurisdiction
of the
church.

14. Provided that nothing in this act contained shall extend to the people usually called Quakers, nor to any meetings or assemblies for religious worship held or convened by such persons; or in any manner to alter or repeal or affect any act, other than and except the acts passed in the reign of King Charles the Second hereinbefore repealed, relating to the people called Quakers, or relating to any assemblies or meetings for religious worship held by them.

Act not to ex-
tend to qua-
kers.

15. Convictions for penalties to be by information upon

Convictions.

GEO. III.
1760-1820.

the oath of any one or more credible witness or witnesses, before any two or more justices of the peace acting in and for the county, &c. and to be levied by distress under the hands and seals of two justices, and paid one moiety to the informer, and the other moiety to the poor of the parish in which the offence was committed; and in case of no sufficient distress, the justices may commit to prison for not exceeding three months.

Appeal to
sessions.

16. Liberty to appeal to the general or quarter sessions of the peace holden next after such conviction, giving to the convicting justices notice in writing of appeal within eight days after any such conviction; and the sessions to proceed in such appeal, and make such order therein, and to award such costs to be paid by and to either party, not exceeding forty shillings, as they in their discretion shall think fit.

Limitation
of prosecu-
tion.

17. No penalty or forfeiture to be recoverable unless sued for, or the offence is prosecuted before justices, within six months after offence.

Limitation
of actions.

18. Any action or suit against any person for anything done in pursuance of this act, to be commenced within three months next after the fact committed, and to be brought in the county wherein the cause of action accrued; and the defendant may plead the general issue, and give this act and the special matter in evidence on any trial to be had thereupon; And if plaintiff fails, the defendant is to have treble costs.

GEORGE THE FOURTH.

1820-1830.

THE great measures of this reign are the act for abolishing the Sacramental Test, and that of relief to the Roman Catholics. Geo. IV.
1820-1830.

The opportunity, however, must be taken of recording an act, too detailed in its provisions for insertion here at length, but certainly one of the most important practical aids upon the statute book for the pure administration of justice. We allude to Sir Robert Peel's jury law. By one of its provisions, which will be extracted below, it secures a defendant in crown prosecutions from that "discretion," which a public officer had assumed of selecting and in fact nominating special juries. There is perhaps no law of modern times for which any living statesman is more justly entitled to the gratitude of his country. It may be added that Sir Robert Peel's plans of consolidation and amendment of the law on particular subjects were ably devised and well executed so far as they extended. It would be well if the same degree of official attention were directed to the crude projects of legal reform, which have of late become so abundant; and which being left to the conduct of individuals, and without any general

GEO. IV.
1820-1830.

supervision, proceed on no defined or systematic plan of operations, and sometimes appear not only ineffectual to any permanent improvement, but contradictory in the very principles on which they are founded.

6 GEO. IV.—1825.

JURY ACT.

CHAP. II.

An Act for consolidating and amending the laws
relative to Jurors and Juries.

31. AND be it further enacted, that every man who shall be described in the jurors' book for any county in England or Wales, or for the county of the city of London, as an esquire or person of higher degree, or as a banker or merchant, shall be qualified and liable to serve on special juries in every such county in England and Wales, and in London respectively; and the sheriff of every county in England and Wales, or his under-sheriff, and the sheriffs of London or their secondary, shall within ten days after the delivery of the jurors' book for the current year to either of them, take from such book the names of all men who shall be described therein as esquires or persons of higher degree, or as bankers or merchants, and shall respectively cause the names of all such men to be fairly and truly copied out in alphabetical order, together with their respective places of abode and additions, in a separate list to be subjoined to the jurors' book, which list shall be called "The Special Jurors' List," and shall prefix to every name in such list its proper number, beginning the numbers from the first name, and continuing them in a regular arithmetical series down to the last name, and shall cause the said several numbers to be written upon distinct pieces of parchment or card, being all as nearly as may be of equal size; and after all the said numbers shall have been so written, shall put the same together in a separate drawer or box, and shall there safely keep the same to be used for the purpose hereinafter mentioned.

GEO. IV.
1820-1830.

What persons to serve.

Special jurors' list.

32. And be it further enacted, that whenever any of

Geo. IV.
1820-1830.

Mode of nominating.

the courts or judges above mentioned shall order a special jury to be struck before the proper officer of such court, such officer shall appoint a time and place for the nomination of such special jury ; and a copy of the rule of court, and of such officer's appointment, shall be served on the under sheriff of the county in England or Wales in which the trial is to be had, or on the secondary of the city of London if the trial is to be had there, and also on all the parties who have usually been served with the same respectively, in the accustomed manner ; And the said officer at the time and place appointed, being attended by such under-sheriff or secondary, or his agent, who are hereby respectively required to bring with them the jurors' book and such special jurors' list, and all the numbers so written on distinct pieces of parchment or card as aforesaid, shall, in the presence of all the parties in any of the cases aforesaid, and of their attornies (if they respectively choose to attend, or if the said parties or their attornies, all or any of them, do not attend, then in their absence), put all the said numbers into a box, to be by him provided for that purpose, and after having shaken them together shall draw out of the said box forty-eight of the said numbers, one after another, and shall as each number is drawn, refer to the corresponding number in the special jurors' list, and read aloud the name designated by such number ; And if at the time of so reading any name, either party or his attorney shall object that the man whose name shall have been so referred to is in any manner incapacitated from serving on the said jury, and shall also then and there prove the same to the satisfaction of the said officer, such name shall be set aside, and the said officer shall instead thereof draw out of the said box another number, and shall in like manner refer to the corresponding number in the said list, and read aloud the name designated thereby, which name may be in like manner set aside, and other numbers and names shall in every such case be resorted to, according to the mode of proceeding hereinbefore described, for the purpose of supplying names in the places of those set aside, until the whole number of forty-eight names not liable to be set aside shall be completed ; And if in any case it shall

so happen that the whole number of forty-eight names cannot be obtained from the special jurors' list, in such case the said officer shall fairly and indifferently take, according to the mode of nomination heretofore pursued in nominating special juries, such a number of names from the general jurors' book, in addition to those already taken from the special jurors' list, as shall be required to make up the full number of forty-eight names, all and every of which forty-eight names shall in such case be equally deemed and taken to be those of special jurors; And the said officer shall afterwards make out for each party a list of the forty-eight names, together with their respective places of abode and additions, and after having made out such list, shall return all the numbers so drawn out, together with all the numbers remaining undrawn, to such under-sheriff or secondary, or his agent, to be by such under-sheriff or secondary safely and securely kept for future use; And all the subsequent proceedings for reducing the said list, and all other matters whatsoever relating to special juries, shall remain and continue in force as heretofore, except where the same or any part thereof is expressly altered by this act; and all the fees heretofore payable on the striking of special juries shall continue to be paid in the accustomed manner.

Geo. IV.
1820-1830.

9 GEO. IV.—1828.

SACRAMENTAL TEST REPEAL.

CHAP. XVII.

An Act for repealing so much of several Acts as imposes the necessity of receiving the Sacrament of the Lord's Supper as a qualification for certain offices and employments.

GEO. IV.
1820-1830.

Whereas an act was passed in the thirteenth year of the reign of King Charles the Second, intituled 'An Act for the well governing and regulating of corporations ;' And whereas another act was passed in the twenty-fifth year of the reign of King Charles the Second, intituled 'An Act for preventing dangers which may happen from popish recusants ;' And whereas another act was passed in the sixteenth year of the reign of King George the Second, intituled 'An Act to indemnify persons who have omitted to qualify themselves for offices and employments within the time limited by law, and for allowing further time for that purpose ; and also for amending so much of an act made in the twenty-fifth year of the reign of King Charles the Second, intituled An Act for preventing dangers which may happen from popish recusants, as relates to the time for receiving the sacrament of the Lord's Supper now limited by the said act :' And whereas it is expedient that so much of the said several acts of parliament as imposes the necessity of taking the sacrament of the Lord's Supper according to the rites or usage of the church of England, for the purposes therein respectively mentioned, should be repealed ; Be it therefore enacted, that so much and such parts of the said several acts passed in the thirteenth and twenty-fifth years of the reign of King Charles the Second, and of the said act passed in the sixteenth year of the reign of King George the Second, as require the

person or persons in the said acts respectively described to take or receive the sacrament of the Lord's Supper according to the rites or usage of the church of England for the several purposes therein expressed, or to deliver a certificate or make proof of the truth of such his or their receiving the said sacrament in manner aforesaid, or as impose upon any such person or persons any penalty, forfeiture, incapacity, or disability whatsoever for or by reason of any neglect or omission to take or receive the said sacrament within the respective periods and in the manner in the said acts respectively provided in that behalf, shall, from and immediately after the passing of this act, be and the same are hereby repealed.

Geo. IV.
1820-1830.

Acts repealed in part.

2. And whereas the protestant episcopal church of England and Ireland, and the doctrine, discipline, and government thereof, and the protestant presbyterian church of Scotland, and the doctrine, discipline, and government thereof, are by the laws of this realm severally established permanently and inviolably: And whereas it is just and fitting, that on the repeal of such parts of the said acts as impose the necessity of taking the sacrament of the Lord's Supper according to the rites or usage of the church of England, as a qualification for office, a declaration to the following effect should be substituted in lieu thereof; Be it therefore enacted, that every person who shall hereafter be placed, elected, or chosen in or to the office of mayor, alderman, recorder, bailiff, town-clerk, or common councilman, or in or to any office of magistracy, or place, trust, or employment relating to the government of any city, corporation, borough, or cinque-port within England and Wales or the town of Berwick-upon-Tweed, shall, within one calendar month next before or upon his admission into any of the aforesaid offices or trusts, make and subscribe the declaration following:

Declaration to be made in lieu.

"I A.B. do solemnly and sincerely, in the presence of God, profess, testify, and declare, upon the true faith of a christian, that I will never exercise any power, authority, or influence which I may possess by virtue of the office of _____ to injure or weaken the protestant church as it is by law established in England, or to disturb the said church, or the bishops and clergy

GEO. IV.
1820-1830.

Declaration
to be sub-
scribed be-
fore magis-
trates, &c.

Neglect.

Persons ad-
mitted into
any office to
make the de-
claration
within six
months.

of the said church, in the possession of any rights or privileges to which such church, or the said bishops and clergy, are or may be by law entitled."

3. And be it enacted, that the said declaration shall be made and subscribed as aforesaid, in the presence of such person or persons respectively, who, by the charters or usages of the said respective cities, corporations, boroughs, and cinque-ports, ought to administer the oath for due execution of the said offices or places respectively; and in default of such, in the presence of two justices of the peace of the said cities, corporations, boroughs, and cinque-ports, if such there be, or otherwise in the presence of two justices of the peace of the respective counties, ridings, divisions, or franchises wherein the said cities, corporations, boroughs, and cinque-ports are; which said declaration shall either be entered in a book, roll, or other record to be kept for that purpose, or shall be filed amongst the records of the city, corporation, borough, or cinque-port.

4. And be it enacted, that if any person placed, elected, or chosen into any of the aforesaid offices or places, shall omit or neglect to make and subscribe the said declaration in manner above mentioned, such placing, election, or choice shall be void; and that it shall not be lawful for such person to do any act in the execution of the office or place into which he shall be so chosen, elected, or placed.

5. And be it further enacted, that every person who shall hereafter be admitted into any office or employment, or who shall accept from his majesty, his heirs and successors, any patent, grant, or commission, and who by his admittance into such office or employment, or place of trust, or by his acceptance of such patent, grant, or commission, or by the receipt of any pay, salary, fee, or wages by reason thereof, would by the laws in force immediately before the passing of this act have been required to take the sacrament of the Lord's Supper according to the rites or usage of the church of England, shall within six calendar months after his admission to such office, employment, or place of trust, or his acceptance of such patent, grant, or commission, make and subscribe the aforesaid declaration, or in default thereof, his appoint-

ment to such office, employment, or place of trust, and such patent, grant, or commission, shall be wholly void.

Geo. IV.
1820-1830.

6. And be it further enacted, that the aforesaid declaration shall be made and subscribed in his majesty's high court of Chancery, or in the court of King's Bench, or at the quarter sessions of the county or place where the person so required to make the same shall reside; and the court in which such declaration shall be so made and subscribed shall cause the same to be preserved among the records of the said court.

Declaration
where to be
made.

7. Provided always, that no naval officer below the rank of rear admiral, and no military officer below the rank of major general in the army or colonel in the militia, shall be required to make or subscribe the said declaration, in respect of his naval or military commission; and that no commissioner of customs, excise, stamps, or taxes, or any person holding any of the offices concerned in the collection, management, or receipt of the revenues which are subject to the said commissioners, or any of the officers concerned in the collection, management, or receipt of the revenues subject to the authority of the postmaster general, shall be required to make or subscribe the said declaration in respect of their said offices or appointments: Provided also, that nothing herein contained shall extend to require any naval or military officer, or other person as aforesaid, upon whom any office, place, commission, appointment, or promotion shall be conferred during his absence from England, or within three months previous to his departure from thence, to make and subscribe the said declaration until after his return to England, or within six months thereafter.

Proviso as to
certain offi-
cers.

8. And be it further enacted, that all persons now in the actual possession of any office, command, place, trust, service, or employment, or in the receipt of any pay, salary, fee, or wages, in respect of or as a qualification for which by virtue of or under any of the before-mentioned acts or any other act or acts, they respectively ought to have heretofore taken or ought hereafter to receive the said sacrament of the Lord's Supper, shall be and are hereby confirmed in the possession and enjoyment of their said several offices, commands, places, trusts, services, em

Persons now
in possession
of office con-
firmed.

Geo. IV.
1820-1830.

ployments, pay, salaries, fees, and wages respectively, notwithstanding their omission or neglect to take or receive the sacrament of the Lord's Supper in manner aforesaid; and shall be and are hereby indemnified, freed, and discharged from all incapacities, disabilities, forfeitures, and penalties whatsoever already incurred or which might hereafter be incurred in consequence of any such omission or neglect; And that no election of or act done or to be done by any such person or under his authority, and not yet avoided, shall be hereafter questioned or avoided by reason of any such omission or neglect; but that every such election and act shall be as good, valid, and effectual as if such person had duly received the said sacrament of the Lord's Supper in manner aforesaid.

Omissions
not to affect
others not
privy.

9. Provided nevertheless, that no act done in the execution of any of the corporate or other offices, places, trusts, or commissions aforesaid, by any such person omitting or neglecting as aforesaid, shall by reason thereof be void or voidable as to the rights of any other person not privy to such omission or neglect, or render such last mentioned person liable to any action or indictment.

10 GEO. IV.—1829.

ROMAN CATHOLIC RELIEF ACT.

CHAP. VII.

An Act for the Relief of His Majesty's Roman Catholic Subjects.

Whereas by various acts of parliament certain restraints and disabilities are imposed on the Roman Catholic subjects of his majesty to which other subjects of his majesty are not liable : And whereas it is expedient that such restraints and disabilities shall be from henceforth discontinued : And whereas by various acts certain oaths and certain declarations, commonly called the declaration against transubstantiation, and the declaration against transubstantiation and the invocation of saints and the sacrifice of the mass, as practised in the church of Rome, are or may be required to be taken, made, and subscribed by the subjects of his majesty, as qualifications for sitting and voting in parliament, and for the enjoyment of certain offices, franchises, and civil rights : Be it enacted, that all such parts of the said acts as require the said declarations, or either of them, to be made or subscribed by any of his majesty's subjects as a qualification for sitting and voting in parliament, or for the exercise or enjoyment of any office, franchise, or civil right, be (save as after excepted) repealed.

GEO. IV.
1820-1830.

Acts repealed.

2. And that it shall be lawful for any person professing the Roman catholic religion, being a peer, or who shall hereafter be returned as a member of the house of commons, to sit and vote in either house respectively, being in all other respects duly qualified, upon taking and subscribing the following oath, instead of the oaths of allegiance, supremacy, and abjuration :

Roman catholics may sit in parliament.

“I A. B. do sincerely promise and swear, that I will be faithful and bear true allegiance to his majesty King George the Fourth, and will defend him to the utmost of

Oath.

GEO. IV.
1820-1830.

my power against all conspiracies and attempts whatever, which shall be made against his person, crown, or dignity; And I will do my utmost endeavour to disclose and make known to his majesty, his heirs and successors, all treasons and traitorous conspiracies which may be formed against him or them. And I do faithfully promise to maintain, support, and defend to the utmost of my power, the succession of the crown; which succession, by an act, intituled 'An Act for the further limitation of the crown, and better securing the rights and liberties of the subject,' is and stands limited to the Princess Sophia, electress of Hanover, and the heirs of her body, being protestants; hereby utterly renouncing and abjuring any obedience or allegiance unto any other person claiming or pretending a right to the crown of this realm. And I do further declare, that it is not an article of my faith, and that I do renounce, reject, and abjure the opinion, that princes excommunicated or deprived by the pope, or any other authority of the see of Rome, may be deposed or murdered by their subjects, or by any person whatsoever. And I do declare, that I do not believe that the pope of Rome, or any other foreign prince, prelate, person, state, or potentate, hath or ought to have any temporal or civil jurisdiction, power, superiority, or pre-eminence, directly or indirectly, within this realm. I do swear, that I will defend to the utmost of my power the settlement of property within this realm, as established by the laws: And I do hereby disclaim, disavow, and solemnly abjure any intention to subvert the present church establishment as settled by law within this realm. And I do solemnly swear, that I never will exercise any privilege to which I am or may become entitled, to disturb or weaken the protestant religion or protestant government in the united kingdom. And I do solemnly, in the presence of God, profess, testify, and declare, that I do make this declaration and every part thereof, in the plain and ordinary sense of words of this oath, without any evasion, equivocation, or mental reservation whatsoever: So help me God."

Sovereign for
time being.

3. And that wherever in the said oath, the name of his present majesty is referred to, the name of the sovereign for the time being, by virtue of the act for the further

limitation of the crown and better securing the rights and liberties of the subject, shall be substituted with proper words of reference.

GEO. IV.
1820-1830.

4. Proviso that the oath shall be taken before sitting and voting, under the same penalties, forfeitures, and disabilities as are provided in the case of persons sitting or voting without taking and subscribing the oaths and the declaration now required by law.

No Roman catholic to sit till oath taken.

5. And that persons professing the Roman catholic religion may vote at elections of members to serve in parliament for England and for Ireland, and also vote at the elections of representative peers of Scotland and of Ireland, and may be elected such representative peers, being in all other respects duly qualified, upon taking and subscribing the oath hereinbefore appointed, instead of the oaths of allegiance, supremacy, and abjuration, and the declaration now by law required; and instead also of such other oath or oaths as are now by law required to be taken by any of his majesty's subjects professing the Roman catholic religion; and upon taking also such other oath or oaths as may now be lawfully tendered to any persons offering to vote at such elections.

Power to vote at elections, and be elected.

6. And that the oath before appointed shall be administered to his majesty's subjects professing the Roman catholic religion, to enable them to vote in the cases aforesaid, in the same manner, at the same time, and by the same officers as the oaths for which it is hereby substituted are now administered; and that in all cases in which a certificate of the taking, making, or subscribing of any of the oaths or of the declaration now required is directed to be given, a like certificate as to the oath hereby appointed shall be given by the same officer or other person, and in the same manner, as the certificate now required.

Administration of oath.

7. And that in all cases where the persons now authorized by law to administer the oaths of allegiance, supremacy, and abjuration to persons voting at elections, are themselves required previously to take an oath, they shall in addition to the oath now by them taken, take an oath for the duly administering the oath hereby appointed, and for the duly granting certificates of the same.

Oath of persons administering oaths.

GEO. IV.
1820-1830.

Scotch formula repealed.

8. And whereas in an act of the parliament of Scotland made in the eighth and ninth session of the first parliament of King William the Third, intituled 'An Act for the preventing the growth of popery,' a certain declaration or formula is contained, which it is expedient should no longer be required: Be it therefore enacted, that such parts of any acts as require the said declaration or formula be repealed, except as to the offices, places, and rights herein-after excepted; And that persons professing the Roman catholic religion may elect and be elected members to serve in parliament for Scotland, and may be enrolled as freeholders in any shire or stewartry of Scotland, and be chosen commissioners or delegates for choosing burgesses for any districts of burghs in Scotland, being in other respects duly qualified, such persons taking the oath before appointed, instead of the oaths of allegiance and abjuration now required, at such time at the last-mentioned oaths, or either of them, are now required to be taken.

No priests to sit in commons.

9. Proviso that no person in holy orders in the church of Rome shall be capable of being elected a member of the house of Commons; and if so elected, such election shall be void; And if any person, being elected a member of the house of Commons, shall after his election take holy orders in the church of Rome, his seat shall become void; And if he shall in any of the said cases sit or vote as a member, he shall be subject to the same penalties, forfeitures, and disabilities as are enacted by an act passed in the forty-first year of King George the Third, intituled 'An Act to remove doubts respecting the eligibility of persons in holy orders to sit in the house of Commons;' and proof of the celebration of any religious service by such person according to the rites of the church of Rome shall be deemed *prima facie* evidence of the fact his being in in holy orders, within the intent of this act.

Power to hold offices under his majesty.

10. And that any of his majesty's subjects professing the Roman catholic religion may hold and enjoy all civil and military offices and places of trust or profit under his majesty, and exercise any other franchise or civil right, except as after excepted, upon taking, at the times and in manner after mentioned, the oath before appointed, instead of the oaths of allegiance, supremacy, and abjura-

tion, and instead of such other oath or oaths as may be now required to be taken for the purpose aforesaid by any of his majesty's subjects professing the Roman catholic religion.

Geo. IV.
1820-1830.

11. Provided that nothing herein contained shall exempt any person professing the Roman catholic religion from the necessity of taking any oaths, or making any declaration not herein-before mentioned, which may by law be required from any person on his admission into any such office or place of trust or profit.

Reservation
of oaths.

12. Provided that nothing herein contained shall extend to enable any person professing the Roman catholic religion to hold the office of guardians and justices or of regent of the United Kingdom, under whatever style or title such last office may be constituted; nor to enable any person, otherwise than as he is now by law enabled, to hold the office of lord high chancellor, lord keeper, or lord commissioner of the great seal; or the office of lord lieutenant, or lord deputy, or other chief governor or governors of Ireland; or his majesty's high commissioner to the general assembly of the church of Scotland.

Offices ex-
cepted.

13. Proviso against affecting an act 7th Geo. IV. as to church rates, parish cesses, &c. in Ireland.

Reservation
of 7 G.4, c.72.

14. And that any of his majesty's subjects professing the Roman catholic religion may be a member of any lay body corporate, and hold any civil office or place of trust or profit therein, and do any corporate act, or vote in any corporate election or other proceeding, upon taking the oath hereby appointed, instead of the oaths of allegiance, supremacy, and abjuration; and upon taking such other oaths as may now be required of any persons becoming members of such lay body corporate, or being admitted to hold any office or place of trust or profit within the same.

Power to be
in lay corpo-
rations,

15. Proviso against his voting at or joining in the election, presentation, or appointment to any ecclesiastical benefice or office in the gift of such lay corporate body.

but not to
vote in
church ap-
pointments.

16. Provided that nothing in this act contained shall enable any persons, otherwise than as they are now enabled, to hold or exercise any office, place, or dignity, in

Act not to ex-
tend to
church offi-
ces.

Geo. IV.
1820-1830.

nor to pre-
sentations to
benefices.

Presenta-
tions to be-
nefices.

Advice to the
crown in
church offi-
ces.

Oaths for
corporate of-
fices.

the united church of England and Ireland, or the church of Scotland, or any place or office whatever, in any of the ecclesiastical courts of judicature of England and Ireland, or any court of appeal from or review of the sentences of such courts, or in the commissary court of Edinburgh, or in any cathedral or collegiate or ecclesiastical establishment or foundation; or any office or place whatever in any of the universities; or any office or place whatever in any of the colleges or halls of the universities, or the colleges of Eton, Westminster, or Winchester, or any college or school within this realm; or to repeal or interfere with any local statute, ordinance, or rule, established within any university, college, hall, or school, by which Roman catholics shall be prevented from being admitted thereto, or from residing or taking degrees therein: Provided that nothing herein contained shall extend to enable any person, otherwise than as he is now by law enabled, to exercise any right of presentation to any ecclesiastical benefice, or to repeal or alter the laws now in force as to the right of presentation to any ecclesiastical benefice.

17. Provided that where any right of presentation to any ecclesiastical benefice shall belong to any office in the gift or appointment of his majesty, held by a person professing the Roman catholic religion, the right of presentation shall be exercised by the archbishop of Canterbury.

18. And that no person professing the Roman catholic religion, shall directly or indirectly advise his majesty, or any person holding the office of guardians of the United Kingdom, or regent thereof, under whatever style or title, or the lord lieutenant, or lord deputy, or other chief governor of Ireland, concerning the disposal of any preferment in the united church of England and Ireland, or in the church of Scotland; And if any such person shall offend in the premises, he shall, being thereof convicted, be deemed guilty of a high misdemeanor, and disabled for ever from holding any office, civil or military, under the crown.

19. And that every person professing the Roman catholic religion, who shall be placed or chosen in or to the office of mayor, provost, alderman, recorder, bailiff, town-clerk, magistrate, councillor, or common councilman, or

any office of magistracy or place of trust or employment relating to the government of any city, corporation, borough, burgh, or district, shall within one month next before or upon his admission, take the oath before appointed, in the presence of such person as by the charters or usages of the said cities, corporations, burghs, boroughs, or districts ought to administer the oath for due execution of the said offices or places ; and in default of such, in the presence of two justices of the peace, councillors, or magistrates of the said cities, corporations, burghs, boroughs, or districts, if such there be ; or otherwise in the presence of two justices of the peace of the counties, ridings, divisions, or franchises wherein the said cities, corporations, burghs, boroughs, or districts are ; Which oath shall either be entered in a book, roll, or other record to be kept for that purpose, or filed amongst the records of the city, corporation, burgh, borough, or district.

GEO. IV.
1820-1830.

20. And that every person professing the Roman catholic religion, who shall be appointed to any office or place of trust or profit under his majesty, shall, within three months next before such appointment, or otherwise before he presumes to exercise or act in such office, take the oath before appointed in the high court of Chancery, or any of the courts of King's Bench, Common Pleas, or Exchequer, at Westminster or Dublin ; or before any judge of assize, or in any court of general or quarter sessions of the peace for the county or place where such person shall reside ; or in any of the courts of session, justiciary, exchequer, or jury court, or any sheriff or stewart court, or any burgh court, or before the magistrates and councillors of any royal burgh in Scotland, between nine in the morning and four in the afternoon ; And the proper officer of the court shall cause the oath to be preserved amongst the records of the court, and shall sign and deliver a certificate thereof as often as demanded, upon payment of two shillings and six-pence ; which certificate shall be sufficient evidence of such oath being duly taken.

Oaths for
other offices.

21. Penalty of two hundred pounds on any catholic entering upon the exercise or enjoyment of any office or place of trust or profit under his majesty, or of any other

Penalty.

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1820-1830.

Oaths by
military and
naval offi-
cers.

No other
oaths neces-
sary.

Titles of sees,
&c. not to be
assumed.

Insignia of
office not to
be used at
any places of
worship.

Penalty on
officiating
except in
usual places.

Not to repeal
5 Geo. IV.
c. 25.

office or franchise, not having so taken the oath; and the appointment to be void.

22. Provided that the oath before appointed shall be taken by the officers in his majesty's land and sea service, professing the Roman catholic religion, at the same times and manner as the oaths and declarations now required by law are directed to be taken, and not otherwise.

23. Proviso that no oath shall be required of catholics for enabling them to hold real or personal property, other than such as may be required of his majesty's other subjects; and that the oath herein appointed shall stand in the place of all oaths and declarations now required; and the proper officer of any of the courts above mentioned, in which any catholic shall demand to take the oath, is required to administer it and to deliver a certificate thereof, as often as demanded, upon payment of one shilling; which certificate shall be sufficient evidence of such oath being duly taken.

24. Proviso that if any person other than the person thereunto authorized by law, shall assume or use the name, style, or title of archbishop of any province, bishop of any bishoprick, or dean of any deanery, in England or Ireland, he shall for every such offence forfeit and pay the sum of one hundred pounds.

25. And that any person holding any judicial or civil office, or any mayor, provost, jurat, bailiff, or other corporate officer, resorting to any place of worship other than that of the establishment, in the robe, gown, or other peculiar habit of his office, or attending with the ensign or insignia of his office, shall forfeit such office, and pay for every offence one hundred pounds.

26. And that any Roman catholic ecclesiastic, or any member of any of the orders, communities, or societies after mentioned, exercising any of the rites or ceremonies of the Roman catholic religion, or wearing the habits of his order, save within the usual places of worship of the Roman catholic religion, or in private houses, shall, being convicted, forfeit for every offence fifty pounds.

27. Provided that nothing in this act contained shall repeal or affect any provision of an act made in the fifth year of his present majesty's reign, intituled 'An Act to

repeal so much of an act passed in the ninth year of the reign of King William the Third, as relates to burials in suppressed monasteries, abbeys, or convents in Ireland, and to make further provision with respect to the burial in Ireland of persons dissenting from the established church.'

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1820-1830.

28. Proviso that every Jesuit and member of any other religious order, community, or society of the church of Rome, bound by monastic or religious vows, now within the United Kingdom, shall within six calendar months deliver to the clerk of the peace of the county, or his deputy, a notice or statement in the form and containing the particulars set forth in the schedule to this act; which such clerk of the peace, or his deputy, shall preserve and register amongst the records of such county or place, without fee, and shall transmit a copy to the chief secretary of the lord lieutenant, if in Ireland, or if in Great Britain, to a secretary of state; and any person offending in the premises shall forfeit for every month during which he shall remain without delivering such notice or statement, fifty pounds.

Suppression
of jesuits, &c.

29. Any Jesuit or member of any such religious order, community, or society coming into this realm, shall be deemed guilty of a misdemeanor, and being convicted, shall be banished from the united kingdom for life.

Jesuits, &c.
coming, to be
banished.

30. Proviso allowing the return of any natural-born subject, being now a Jesuit or other member of any such religious order, community, or society as aforesaid, and now out of the realm; he, within six months after returning, delivering such notice or statement to the clerk of the peace of the county or place where he shall reside, or his deputy, to be so registered and transmitted as before directed; under penalty of fifty pounds.

Subjects be-
ing jesuits,
may return
and register.

31. Proviso allowing any one of the principal secretaries of state, being a protestant, to permit any Jesuit, or member of any such religious order, community, or society as aforesaid, to come into the United Kingdom, and remain not exceeding six months, and to revoke any such licence before the expiration thereof; And persons not departing within twenty days after the time in such licence, or after notice of revocation, shall be deemed guilty of a misdemeanor, and being convicted shall be banished for life.

Secretaries
of state may
grant licen-
ces.

GEO. IV.
1820-1830.

Accounts to
be laid before
parliament.
Admitting
jesuits, &c.
to be a mis-
demeanor.

32. Proviso for laying annually before parliament an account of all such licences within the twelve months preceeding.

33. Proviso that any Jesuit, &c. admitting any person to become a regular ecclesiastic, or brother or member of any such religious order, community, or society, or administering, or aiding in the administering or taking of any oath, vow, &c. shall be deemed guilty of a misdemeanor.

Any persons
admitted to
be banished.

34. And that any person so admitted shall be deemed guilty of a misdemeanor, and being convicted shall be banished for life.

The party of-
fending to be
removed.

35. Power for his majesty to cause such person to be conveyed to such place out of the United Kingdom as his majesty, by the advice of his privy council, shall direct.

Power of
transporta-
tion.

36. Enactment that any offender so sentenced, if after the end of three months at large without lawful cause, shall be transported for life.

Female so-
cieties.

37. Nothing herein contained to extend to affect any religious order, community, or establishment consisting of females bound by religious or monastic vows.

WILLIAM THE FOURTH.

1830.

THIS collection will terminate with the important act lately passed, for amending and in part remodelling the representative system of England.

WILL. IV.
1830.

Those who have been accustomed to mark the gradual practical adaptation of our early parliamentary constitution to the exigencies of each æra in the progressive developement of the English commonwealth, will surely deem it less singular that such a work should have been now undertaken, than that so little should hitherto have been done towards accomplishing the object throughout the various chances and vicissitudes of several centuries.

A judicious and temperate adaptation and arrangement of the constituency to the practical purposes of fair representation appears eminently consistent with the general spirit and practice of our constitution. He who reads the statute which four centuries ago secured a numerous but respectable county constituency by requiring the voters to be freeholders of a fixed value, will hardly object to abolishing the anomaly which excluded copyholders and leaseholders of at least equal substance. Again, the constitutional enquirer who

WILL. IV.
1830.

sees the foundation of all that gives stability and reciprocal justice to the form of our government in the practical recognition of that "*justissima lex*, which" (in the words of Edward I.) "had been established by the provident circumspection of holy princes his ancestors, ordaining that what concerns all should be approved by all, and that for common dangers remedies should be provided in common*," will be little likely to disapprove of provisions fairly directed towards removing the elective power from bodies no longer possessing social importance, and for giving a direct representation to communities and interests, which in the progress of time have risen into positions of commercial or political note.

The time, too, was one in which such a topic was likely to command attention irresistibly. Considering the extent to which public opinion, both at home and abroad, had since the peace been by various circumstances brought to bear upon all political institutions, with a view to their more complete adaptation to the objects of good government, the subject before us could hardly escape active consideration; and, if entered upon at all, it seemed necessary that the remedy should proceed to an extent likely to conciliate and satisfy at least a large portion of the community, and to remove the dead weight of moral and political injustice which in their judgement was involved in the maintenance of the old system of representation.

It might naturally be expected that such a work, after so long a delay, and under the pressure

* *Ante*, p. 54.

of the highly prized interests which it must affect, would be attended with much difficulty ;—that it would be received by some with the anxious eyes of disappointed interest, by others with the timid caution applicable to what they feared might be a doubtful or hazardous experiment;—and that strong political excitements would under such circumstances arise, which it must now be the work of judicious statesmen and legislators to allay.

WILL. IV.
1830.

Our province has hitherto, from the nature of our task, been almost wholly historical; and we have no wish to venture beyond those limits further than to remark, that there appears to us, in what has been done, no ground for mistrust or apprehension; that the new representative system seems to be sufficiently based in the property and intelligence of the community, and, in short, to be adequate to the end of such an institution,—the election of persons deservedly respectable for station, probity, and talent, sympathizing in general feeling with the virtue, property, and social advancement of the empire.

For the rest, experience must determine; pointing out such modifications as the best-considered plans of legislation in matters of such moment must be expected to require. We have only to express our humble confidence that our country will not, on this important occasion, be deserted by that spirit of temperance and patient foresight which has hitherto characterized the successive advances of a constitution, too precious either to be suffered to decay for want of energy in the correction of its abuses, or to be sacrificed to a restless appetite for speculative change.

WILL. IV.
1830.

A short table is subjoined, exhibiting at one view the past and present distribution of the representation, in relation both to population and value of real property.

The whole act follows; separated, for convenience of reference, into the various divisions of its subject; and with only such abbreviation of phraseology as has been applied to some other of the modern acts quoted, and as will not in any way obscure the meaning of the enactments.

REPRESENTATION OF ENGLAND.

Counties.	Former number of Members.	Increase as County Members.	Increase as Borough Members.	Decrease in Borough Members.	Number returned under the Reform Act.	Population of 1831.	Annual value of real property in 1815.
Bedfordshire	4	.....	.....	.....	4	95,383	343,682
Berkshire	9	1	.....	1	9	145,289	652,082
Buckinghamshire	14	1	.....	4	11	146,529	644,129
Cambridgeshire	6	1	.....	.....	7	143,955	655,220
Cheshire	4	2	4	.....	10	334,410	1,083,083
Cornwall ..	42	2	.....	30	14	302,440	916,060
Cumberland	6	2	1	.....	9	169,681	705,445
Derbyshire	4	2	.....	.....	6	237,170	887,659
Devonshire	26	2	2	8	22	494,168	1,897,515
Dorset	20	1	.....	7	14	159,252	698,395
Durham	4	2	4	.....	10	253,817	791,359
Essex	8	2	.....	.....	10	317,237	1,556,836
Glostershire	8	2	3	.....	13	386,904	1,463,259
Hampshire	26	3	.....	10	19	314,313	1,130,951
Herefordshire	8	1	.....	2	7	110,976	604,614
Hertfordshire	6	1	.....	.....	7	143,341	571,107
Huntingdonshire	4	.....	.....	.....	4	53,149	320,187
Kent	18	2	3	5	18	479,155	1,644,179
Lancashire	14	2	13	3	26	1,336,854	3,087,774
Leicestershire	4	2	.....	.....	6	197,003	902,217
Lincoln	12	2	.....	1	13	317,254	2,061,830
Middlesex	8	.....	6	.....	14	1,358,541	5,595,536
Monmouth	3	.....	.....	.....	3	98,130	295,097
Norfolk	12	2	.....	2	12	390,054	1,540,952
Northamptonshire ..	9	2	.....	3	8	179,276	942,161
Northumberland	8	2	1	1	10	222,912	1,240,594
Nottinghamshire	8	2	.....	.....	10	225,320	737,229
Oxfordshire	9	1	.....	1	9	151,726	713,147
Rutland	2	.....	.....	.....	2	19,385	133,487
Shropshire	12	2	.....	2	12	222,503	1,037,936
Somersetshire	18	2	1	6	15	403,908	1,900,651
Staffordshire	10	2	5	.....	17	410,483	1,150,284
Suffolk	16	2	.....	7	11	296,304	1,127,404
Surrey	14	2	2	7	11	436,326	1,579,172
Sussex	28	2	2	14	18	272,328	915,348
Warwickshire	6	2	2	.....	10	336,988	1,236,726
Westmoreland	4	.....	1	2	3	35,041	298,198
Wiltshire	34	2	.....	18	18	239,181	1,155,458
Worcestershire	9	2	2	1	12	211,356	799,605
Yorkshire	32	2	11	8	37	1,371,296	4,728,002
	489	62	63	143	471		

2 WILL. IV.—1832.

ENGLISH REFORM ACT.

CHAP. XLV.

An Act to amend the Representation of the People in England and Wales.

DIVISION I.—*Disfranchisement and Enfranchisement.*

WILL. IV.
1830.

Certain Boroughs to
cease to send
members.

WHEREAS it is expedient to take effectual measures for correcting divers abuses that have long prevailed in the choice of members to serve in the Commons House of Parliament, to deprive many inconsiderable places of the right of returning members, to grant such privilege to large, populous, and wealthy towns, to increase the number of knights of the shire, to extend the elective franchise to many of His Majesty's subjects who have not heretofore enjoyed the same, and to diminish the expense of elections; Be it therefore enacted, that each of the boroughs in Schedule (A.), that is to say,

Aldborough,
Aldeburgh,
Amersham,
Appleby,
Beeralston,
Bishop's Castle,
Blechingley,
Boroughbridge,
Bossiney,
Bramber,
Brackley,
Callington,
Camelford,
Castle Rising,

Corfe Castle,
Downton,
Dunwich,
East Grinstead,
East Looe,
Fowey,
Gatton,
Great Bedwin,
Haslemere,
Hedon,
Heytesbury,
Higham Ferrers,
Hindon,
Ilchester,

Lostwithiel,
Ludgershall,
Milborne Port,
Minehead,
Newport,
Newtown,
Newton,
New Romney,
Okehampton,
Old Sarum,
Orford,
Plympton,
Queenborough,
Saltash,

Seaford,	St. Michael's or	West Looe,	WILL. IV. 1830.
Steyning,	Midshall,	Whitchurch,	
Stockbridge,	Tregony,	Winchelsea,	
St. Germain's,	Wendover,	Wootton Bassett,	
St. Mawe's,	Weobly,	Yarmouth,	

shall after this parliament cease to return any member to serve in parliament.

2. And that each of the boroughs in Schedule (B.), that is to say,

Arundel,	Horsham,	Reigate,	Certain Bo- roughs to re- turn one member only.
Ashburton,	Hythe,	Rye,	
Calne,	Launceston,	Shaftesbury,	
Christchurch,	Liskeard,	St. Ives,	
Clitheroe,	Lyme Regis,	Thirsk,	
Dartmouth,	Malmesbury,	Wallingford,	
Droitwich,	Midhurst,	Wareham,	
Eye,	Morpeth,	Westbury,	
Great Grimsby,	North Allerton,	Wilton,	
Helston,	Petersfield,	Woodstock,	

shall after this parliament return one member and no more.

3. And that each of the places in Schedule (C.), that is to say,

Birmingham,	Halifax,	Stockport,	New bo- roughs to re- turn two members.
Blackburn,	Lambeth,	Stoke-upon-Trent,	
Bolton,	Leeds,	Stroud,	
Bradford,	Macclesfield,	Sunderland,	
Brighton,	Manchester,	Tower Hamlets,	
Devonport,	Mary-le-bone,	and	
Finsbury,	Oldham,	Wolverhampton,	
Greenwich,	Sheffield,		

shall for the purposes hereof be a borough; and as such include the place or places to be comprehended within the boundaries of such borough, as settled by an act to be passed in this parliament; which, when passed, shall be deemed part of this act as fully as if incorporated here-

WILL. IV.
1830.

New bo-
roughs to re-
turn one
member.

with; and that each of such boroughs shall after this parliament return two members.

4. And that each of the places in Schedule (D.), that is to say,

Ashton under Lyne,	Huddersfield,	Tynemouth,
Bury,	Kendal,	Wakefield,
Chatham,	Kidderminster,	Walsall,
Cheltenham,	Merthyr Tydvil,	Warrington,
Dudley,	Rochdale,	Whitby,
Frome,	Salford,	and
Gateshead,	South Shields,	Whitehaven,

shall for the purposes hereof be a borough, and as such include the place or places to be comprehended within the boundaries thereof, as settled by an act to be passed in this parliament; which, when passed, shall be deemed to be part of this act as fully as if incorporated herewith; and that each of such boroughs shall after this parliament return one member.

Shoreham,
Cricklade,
Aylesbury,
and East
Retford.

5. And that the borough of New Shoreham shall for the purposes hereof include the whole of the Rape of Bramber in Sussex, except such parts thereof as shall be included in the borough of Horsham by an act to be passed in this parliament; and that the borough of Cricklade shall, for the purposes hereof, include the hundreds and divisions of Highworth, Cricklade, Staple, Kingsbridge, and Malmsbury in the county of Wilts, except such parts of the hundred of Malmsbury as shall be included in the borough of Malmsbury by an act to be passed in this parliament; and that the borough of Aylesbury shall, for the purposes hereof, include the three hundreds of Aylesbury; and that the borough of East Retford shall for such purposes include the hundred of Bassetlaw, and all places locally situate within the outside boundary of the hundred of Bassetlaw, or surrounded by such boundary, and any part of the county of Lincoln or York.

Weymouth,
Penryn,
Sandwich.

6. And that the borough of Weymouth and Melcombe Regis shall, after this parliament, return two members and no more; and that Penryn shall, for the purposes hereof, include the town of Falmouth; and that Sandwich

shall, for such purposes, include the parishes of Deal and Walmer.

WILL. IV.
1830.

7. And that every city and borough in England now returning members, and every place sharing in the election therewith, (except the boroughs in Schedule (A.), and the boroughs of New Shoreham, Cricklade, Aylesbury, and East Retford), and each of the boroughs of Penryn and Sandwich, shall, for the purposes hereof, include the place or places to be comprehended within the boundaries thereof, as settled by an act to be passed in this parliament; which, when passed, shall be deemed to be part of this act as fully as if incorporated herewith.

Boundaries
of boroughs
in England.

8. And that each of the places named in the first column of Schedule (E.) shall have a share in the election of a member for the shire-town or borough which is mentioned in conjunction therewith in the second column of Schedule (E.)

Places in
Wales to
have a share
in elections.

9. And that each of the places in the first column of Schedule (E.), and each of the shire-towns or boroughs in the second column of that schedule, and the borough of Brecon, shall, for the purposes hereof, include the place or places to be comprehended within the boundaries settled by an act to be passed in this parliament; which when passed, shall be deemed to be part of this act as fully as if incorporated herewith.

Boundaries
in Wales.

10. And that each of the towns of Swansea, Loughor, Neath, Aberavon, and Kenfig, shall, for the purposes of this act, include the place or places to be comprehended within the boundaries settled by an act to be passed in this parliament; which, when passed, shall be deemed part of this act as fully as if incorporated herewith; And that the said five towns, so including, shall for the purposes hereof be one borough, and as such, after this parliament, return one member; And that the Portreeve of Swansea shall be the returning officer for that borough; And that no person, by reason of any right accruing in any of the said five towns, shall have a vote in the election of a member for the borough of Cardiff.

Swansea,
Loughor,
Neath, Aber-
avon, and
Kenfig.

11. And that the persons described in Schedules (C.) and (D.) shall be the returning officers at all elections for the boroughs in conjunction with which they are respec-

Returning
officers for
new bo-
roughs.

WILL. IV.
1830.

Who disqua-
lified.

Who ex-
empt.

Six knights
for York-
shire.

tively mentioned in such schedules ; And that for those boroughs in the said Schedules for which no persons are therein mentioned as returning officers, the sheriff of the county in which such boroughs are situate shall, within two months and in every succeeding year in March, by writing under his hand, to be delivered to the clerk of the peace of the county within one week, and to be by such clerk of the peace filed and preserved with the records of his office, appoint for each of such boroughs a fit person resident therein, to be the returning officer until the succeeding March ; And in the event of the death of any such person, or his becoming incapable to act by sickness or other sufficient impediment, the sheriff shall on notice thereof forthwith appoint in his stead a fit person, resident as aforesaid, to be the returning officer for the remainder of the current year ; And no person having been so appointed, shall after the expiration of his office be compellable thereafter to serve again for the same borough : PROVIDED that no person in holy orders, nor any churchwarden or overseer within any such borough, shall be appointed returning officer for the same ; And that no person appointed returning officer for any borough sending or to send members to parliament shall be appointed a churchwarden or overseer therein while such returning officer : And that no person qualified to be elected a member in parliament shall be compellable to serve as returning officer for any borough if within one week after notice of his appointment he make oath of such qualification before any justice of the peace, and forthwith notify the same to the sheriff : And that if his majesty shall grant his charter of incorporation to any of the boroughs in Schedules (C.) and (D.) not now incorporated, and thereby give power to elect a mayor or other chief municipal officer thereof, he then shall be the only returning officer ; and the provisions before contained as to the appointment of one shall cease.

12. And that in future parliaments there shall be six knights of the shire instead of four, to serve for the county of York ; (that is to say,) two knights for each of the three ridings ; to be elected in the same manner, and by the same descriptions of voters, and in respect of the same rights of voting, as if each riding were a separate county ; And that

the court for the election of knights of the shire for the north riding shall be holden at the city of York, for the west riding at Wakefield, and for the east riding at Beverley.

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13. And that in future parliaments there shall be four knights of the shire, instead of two, to serve for the county of Lincoln, (that is to say) two for the parts of Lindsey, and two for the parts of Kesteven and Holland: and that such four knights shall be chosen in the same manner, and by the same descriptions of voters, and in respect of the same rights of voting, as if the said parts of Lindsey were a separate county, and the said parts of Kesteven and Holland were also a separate county; and that the court for elections for the parts of Lindsey shall be holden at the city of Lincoln, and that for the parts of Kesteven and Holland at Sleaford.

Four knights
for Lincoln-
shire.

14. And that each of the counties enumerated in the Schedule marked (F.) that is to say,

Counties to
be divided.

Cheshire,	Hampshire,	Staffordshire,
Cornwall,	Lancashire,	Suffolk,
Cumberland,	Leicestershire,	Surrey,
Derbyshire,	Norfolk,	Sussex,
Devonshire,	Northumberland,	Warwickshire,
Durham,	Northamptonshire,	Wiltshire,
Essex,	Nottinghamshire,	and
Gloucestershire,	Shropshire,	Worcestershire,
Kent,	Somersetshire,	

shall be divided into two divisions, which shall be described by an act to be passed in this parliament, which, when passed, shall be deemed part of this act as fully as if incorporated herewith; and that in all future parliaments there shall be four knights of the shire, instead of two, to serve for each of the said counties, (that is to say) two knights for each division; and that such knights shall be chosen in the same manner, and by the same descriptions of voters, and in respect of the same rights of voting, as if each division were a separate county; and that the court for elections for each division shall be holden at the place to be named in the act so to be passed for describing the said divisions.

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Counties to
return three
knights.

15. And that in all future parliaments there shall be three knights of the shire, instead of two, to serve for each of the counties in Schedule (F. 2.) that is to say,

Berkshire,	Herefordshire,
Buckinghamshire,	Hertfordshire,
Cambridgeshire,	and
Dorsetshire,	Oxfordshire,

and two knights of the shire, instead of one, for each of the counties of Carmarthen, Denbigh, and Glamorgan.

Isle of
Wight.

16. And that the Isle of Wight shall for the purposes hereof be a county of itself, separate from the county of Southampton, and return one knight of the shire; who shall be chosen by the same description of voters, and in respect of the same rights of voting, as any other knight of the shire; and that all elections shall be holden at Newport, and the sheriff of the Isle, or his deputy, shall be the returning officer.

Towns which
are counties
to be in-
cluded in ad-
joining coun-
ties.

17. And that for the purpose of electing knights of the shire, the East Riding of Yorkshire, the North Riding, the said parts of Lindsey, and the counties at large in the second column of Schedule (G.) shall include the cities and towns, and counties of the same, in conjunction therewith named in the first column of that Schedule, that is to say,

Caermathcn,	Caermarthenshire.
Canterbury,	Kent.
Chester,	Cheshire.
Coventry,	Warwickshire.
Gloucester,	Gloucestershire.
Kingston-upon-Hull,	East Riding of Yorkshire.
Lincoln,	The parts of Lindsey, Linc.
London,	Middlesex.
Newcastle-upon-Tyne,	Northumberland.
Poole,	Dorsetshire.
Worcester,	Worcestershire.
York and Ainsty,	North Riding of Yorkshire.
Southampton,	Hampshire.

DIVISION 2.—*County Voters.*WILL. IV.
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18. And that no person shall be entitled to vote in the election of knights of the shire, or of members for any city or town being a county of itself, in respect of any freehold lands or tenements whereof he may be seised for his own life, or the life of another, or any lives whatsoever, except he shall be in the actual and *bonâ fide* occupation thereof, or except the same shall have come to him by marriage, marriage settlement, devise, or promotion to any benefice or to any office, or shall be of the clear yearly value of not less than ten pounds above all rents and charges payable out of or in respect of the same. PROVIDED that nothing herein contained shall prevent any person now seised for his own life, or the life of another, or any lives whatsoever, of any freehold lands or tenements in respect of which he now has, or but for the passing of this act might acquire, the right of voting in such elections, from retaining or acquiring, so long as he shall be so seised, such right of voting if registered according to the provisions after contained.

Limitation
as to free-
holds for life.

19. And that every male person of full age, and not subject to any legal incapacity, who shall be seised at law or in equity of any lands or tenements of copyhold or any other tenure except freehold, for his own life, or the life of another, or any lives whatsoever, or for any larger estate, of the clear yearly value aforesaid, shall be entitled to vote in the election of knights of the shire for the county, riding, parts, or division of the county, in which such lands or tenements shall be situate.

Copyholders.

20. And that every such male person who shall be entitled, either as lessee or assignee, to any lands or tenements, whether of freehold or any other tenure, for the unexpired residue of any term originally created for not less than sixty years, (whether determinable on a life or lives, or not,) of the clear yearly value aforesaid, or for the unexpired residue of any term originally created for not less than twenty years, (whether determinable on a life or lives, or not,) of the clear yearly value of not less than fifty pounds over and above all such rents and charges, or who shall occupy as tenant any lands or tenements for which he shall be *bonâ fide* liable to a yearly rent of not

Leaseholders
and occupi-
ers.

WILL. IV.
1830.

less than fifty pounds, shall be entitled to vote in the election of knights of the shire for the county, riding, parts, or division of county, in which the same shall be situate: Provided that no person, being only a sub-lessee, or the assignee of any underlease, shall have a right to vote in respect of any such term of sixty years or twenty years as aforesaid, unless in actual occupation of the premises.

What to be
charges.

21. And that no public or parliamentary tax, nor church, county, or parochial rate, shall be deemed a charge within the meaning of this act.

Land tax as-
sessment.

22. And that in order to entitle any person to vote in respect of any messuages, lands, or tenements, freehold or otherwise, it shall not be necessary that the same shall be assessed to the land tax.

Trustees and
mortgagees.

23. And that no person shall have a vote in the election of knights of the shire for any trust estate or mortgage, unless such trustee or mortgagee be in actual possession or receipt of the rents and profits, but the mortgagor or cestuique trust in possession shall vote notwithstanding such mortgage or trust.

No vote for
county for
certain free-
holds.

24. And that no person shall be entitled to vote in the election of knights of the shire in respect of his estate or interest as a freeholder in any house, warehouse, counting-house, shop, or other building occupied by himself, or in any land occupied by himself together with any house, warehouse, counting-house, shop, or other building, if of such value as would (according to the provisions after contained) confer on him the right of voting for any city or borough, whether he shall or not have actually acquired the right to vote for such city or borough in respect thereof.

No vote for
certain copy-
holds and
leaseholds.

25. And that no person shall be entitled to vote in the election of knights of the shire in respect of his estate or interest as a copyholder or customary tenant, or tenant in ancient demesne, holding by copy or court roll, or as such lessee or assignee, or as such tenant and occupier as aforesaid, in any house, warehouse, counting-house, shop, or other building, or in any land occupied together with the house, warehouse, counting-house, shop, or other building, if of such value as would (according to the provisions after contained) confer on him *or on any other person* the

right of voting for any city or borough, whether he *or any other person* shall or not have actually acquired the right to vote for such city or borough in respect thereof.

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1830.

26. And that no person shall be entitled to vote in the election of knights of the shire, unless duly registered according to the provisions after contained; and that no person shall be so registered in any year in respect of his estate or interest in any lands or tenements as a freeholder, copyholder, customary tenant, or tenant in ancient demesne, unless he shall have been in actual possession, or in receipt of the rents and profits thereof for his own use, for six calendar months at least next previous to the last day of July in such year, which period of six months shall be sufficient; and that no person shall be so registered in any year, in respect of any lands or tenements held by him as such lessee or assignee, or occupier and tenant as aforesaid, unless he shall have been in actual possession or in receipt of the rents and profits thereof for his own use, as the case may require, for twelve calendar months next previous to the last day of July in such year: PROVIDED that where any lands or tenements, which would otherwise entitle the owner, holder, or occupier thereof to vote, shall come to any person at any time within such respective periods, by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church, or to any office, he shall be entitled in respect thereof to have his name inserted as a voter in such election in the lists then next to be made as after mentioned, and upon being duly registered, to vote in such election.

Possession
and registra-
tion essen-
tial.

Exception.

DIVISION III.—*Borough Voters.*

27. And that in every city or borough which shall return a member or members to serve in any future parliament, every male person of full age, and not subject to any legal incapacity, who shall occupy within such city or borough, or within any place sharing in the election for such city or borough, as owner or tenant, any house, warehouse, counting-house, shop, or other building, being, either separately, or jointly with any land within such city, borough, or place occupied therewith by him as owner, or occupied therewith by him as tenant under the

Occupiers of
houses, &c.
value of 10/.

WILL. IV.
1830.

if rated,

Rate and
taxes paid,

and resident.

Premises oc-
cupied in
succession.

Joint occu-
piers.

same landlord, of the clear yearly value of not less than ten pounds, shall, if duly registered as after mentioned, be entitled to vote in the election of a member or members for such city or borough: PROVIDED that no such person shall be so registered in any year unless he shall have occupied such premises for twelve calendar months next previous to the last day of July in such year, nor unless such person, where such premises are situate in any parish or township in which there shall be a rate for the relief of the poor, shall have been rated in respect of such premises to all rates for the relief of the poor in such parish or township during such his occupation so required, nor unless he shall have paid, on or before the twentieth day of July in such year, all the poor's rates and assessed taxes which shall have become payable from him in respect of such premises previously to the sixth day of April then next preceeding: PROVIDED also, that no such person shall be so registered in any year unless he shall have resided for six calendar months next previous to the last day of July in such year within the city or borough, or within the place sharing in the election for the city or borough, in respect whereof he shall be entitled to vote, or within seven statute miles thereof or of any part thereof.

28. And that the premises in respect of the occupation of which any person shall be entitled to be registered in any year, and to vote in any city or borough, may be different premises occupied in immediate succession by such person during the twelve calendar months next previous to the last day of July in such year, such person having paid, on or before the twentieth day of July in such year, all the poor's rates and assessed taxes which shall previously to the sixth day of April next preceding have become payable from him in respect of all such premises so occupied in succession.

29. And that where any premises as aforesaid, in any such city or borough, or any place sharing in the election therewith, shall be jointly occupied by more persons than one as owners or tenants, each of such joint occupiers shall, (subject to the conditions before contained as to persons occupying premises in any such city, borough, or place,) be entitled to vote in the election for such city

or borough, in respect of the premises so jointly occupied, if the clear value thereof shall be of an amount which, when divided by the number of such occupiers, shall give a sum of not less than ten pounds for each such occupier, but not otherwise.

WILL. IV.
1830.

30. And that in every such city or borough, and place sharing therewith, it shall be lawful for any person occupying any house, warehouse, counting-house, shop, or other building, either separately or jointly with any land occupied therewith by him as owner, or occupied therewith by him as tenant under the same landlord, in any parish or township in which there shall be a rate for the relief of the poor, to claim to be rated to such relief in respect of such premises, whether the landlord shall or not be liable to be so rated in respect thereof; and upon such occupier so claiming and actually paying or tendering the full amount of the rate or rates, if any, then due in respect of such premises, the overseers of the parish or township in which such premises are situate are hereby required to put his name upon the rate; and in case such overseers shall neglect or refuse, he shall nevertheless for the purposes of this act be deemed to have been so rated from the period at which the rate shall have been made in respect of which he shall have so claimed to be rated: PROVIDED that where under any act of parliament the landlord shall be liable to the payment of the poor rate in respect of any premises occupied by his tenant, nothing herein contained shall vary or discharge the liability of such landlord; but that if the tenant who shall have been rated for such premises in consequence of any such claim shall make default in payment of the rate, such landlord shall remain liable as if he alone had been rated.

Occupiers
may demand
to be rated.

31. And that in every city or town being a county of itself, in the election for which freeholders or burgage tenants, either with or without any superadded qualification, now have a right to vote, every such freeholder or burgage tenant shall be entitled to vote in the election of members to serve for such city or town, provided he shall be duly registered as after mentioned; but that no such person shall be so registered in any year in respect of any freehold or burgage tenement unless he shall have

Freeholders
in cities and
towns coun-
ties of them-
selves.

WILL. IV.
1830.

been in the actual possession, or in receipt of the rents and profits for his own use, for twelve calendar months next previous to the last day of July in such year, (except where the same shall have come to him, at any time within such twelve months, by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church, or to any office,) nor unless he shall have resided for six calendar months next previous to the last day of July in such year within such city or town, or within seven statute miles thereof or of any part thereof: PROVIDED that nothing in this enactment contained shall vary or abridge the provisions before made relative to the right of voting for any city or town being a county of itself, in respect of any freehold for life or lives: PROVIDED also, that every freehold or burgage tenement which may be situate without the present limits of any such city or town being a county of itself, but within the limits thereof as settled by the act to be passed as before mentioned, shall confer the right of voting in the election of a member for such city or town the same as if situate within the present limits thereof.

Freemen to
be resident,
&c.

32. And that every person who would have been entitled to vote for any city or borough not included in Schedule (A.) either as a burgess or freeman, or in the city of London as a freeman and liveryman, if this act had not passed, shall be entitled to vote if duly registered as hereinafter mentioned; but that no such person shall be so registered, unless he shall on the last day of July in such year, be qualified in such manner as would entitle him then to vote if such day were the day of election, and this act had not passed; nor unless, (being a burgess or freeman, or freeman and liveryman of any city or borough,) he shall have resided for six calendar months next previous to the last day of July in such year within such city or borough, or within seven statute miles from the place where the poll shall heretofore have been taken; nor unless, (being a burgess or freeman of any place sharing in the election for any city or borough,) he shall have resided for six calendar months next previous to the last day of July in such year within such place so sharing as aforesaid, or within seven statute miles of the place

mentioned in conjunction with such place so sharing as aforesaid and named in the second column of schedule (E. 2.) PROVIDED that no person elected or admitted a burgess or freeman since the first day of March, 1831, otherwise than in respect of birth or servitude, or hereafter to be elected or admitted, otherwise than in respect of birth or servitude, shall be entitled to vote as such or to be registered: PROVIDED also, that no person shall be so entitled as a burgess or freeman in respect of birth unless his right be originally derived from or through some person who was a burgess or freeman, or entitled to be admitted such, previously to the first day of March in the year 1831, or from or through some person who since that time shall have become or shall hereafter become a burgess or freemen in respect of servitude: PROVIDED also that every person who would have been entitled, if this act had not been passed, to vote as a burgess or freeman of Swansea, Loughor, Neath, Aberavon, or Ken-fig, in elections for the borough of Cardiff, shall cease to vote, and shall instead vote as such burgess or freeman in the elections for the borough composed of the towns of Swansea, Loughor, Neath, Aberavon, and Ken-fig, subject to the provisions before contained as to a burgess or freeman of any place sharing in the election for any city or borough.

WILL. IV.
1830.

Exclusion of
freemen
since 1st of
March, 1831.

Exception.

Freemen of
Swansea, &c.

33. And that no person shall be entitled to vote in the election of members for any city or borough, except in respect of some right conferred by this act, or as a burgess or freeman, or as a freeman and liveryman, or (in the case of a city or town being a county of itself) as a freeholder or burgage tenant as before mentioned: PROVIDED always, that every person now having a right to vote in the election for any city or borough (except those in Schedule (A.) in virtue of any other qualification than as a burgess or freeman, or as a freeman and liveryman, or in case of a city or town being a county of itself, as a freeholder or burgage tenant as before mentioned, shall retain such right so long as he shall be qualified as an elector according to the usages and customs of such city or borough or any law now in force, and such person shall be entitled to vote in the election of members for such city or borough if duly registered; but that no such person

Reservation
of rights in
boroughs.

WILL. IV.
1830.

Residence,
&c. required.

shall be so registered in any year unless he shall on the last day of July in such year be qualified in such manner as would entitle him then to vote if such day were the day of election and this act had not been passed, nor unless such person, where his qualification shall be in any city or borough, shall have resided therein for six calendar months next previous to the last day of July in such year, or within seven statute miles from the place where the poll shall heretofore have been taken, nor unless such person, where his qualification shall be within any place sharing in the election for any city or borough, shall have resided for six calendar months next previous to the last day of July in such year within such place so sharing as aforesaid, or within seven statute miles of the place mentioned in conjunction with such place so sharing and named in the second column of Schedule (E. 2): PROVIDED nevertheless, that every such person shall for ever cease to enjoy such right of voting if his name shall have been omitted for two successive years from the register of such voters for such city or borough, unless so omitted in consequence of having received parochial relief within twelve calendar months next previous to the last day of July in any year, or in consequence of absence on the naval or military service of his majesty.

Freehold
votes for
New Shore-
ham, Crick-
lade, Ayles-
bury, or East
Retford.

34. And that every person now having a right to vote for New Shoreham, or Cricklade, Aylesbury, or East Retford, in respect of any freehold wheresoever situate, shall retain such right of voting, (subject to the provisions herein-before mentioned with regard to persons whose right of voting for any borough is reserved by this act,) save that such persons now having a right to vote for New Shoreham, Cricklade, Aylesbury, or East Retford, shall not be registered in any year unless they shall have resided for six calendar months next previous to the last day of July in such year within the borough of New Shoreham, Cricklade, Aylesbury, or East Retford, respectively, as defined by this act, or within seven statute miles of such borough or any part thereof; and that for the purpose of the registration after required all persons now having a right to vote for New Shoreham in respect of any freeholds which may be situate in the borough of

Horsham, or for Cricklade in respect of any freeholds situate in the borough of Malmsbury, as such boroughs of Horsham or Malmsbury may be defined by the act to be passed as before mentioned, shall be inserted in the list of voters after directed to be made by the overseers of that parish or township within the borough of New Shoreham or the borough of Cricklade respectively, as defined by this act, which shall be next adjoining to the parish or township in which such freeholds shall be situate ; and if the parish or township in which any such freeholds are shall adjoin two or more parishes or townships within New Shoreham or Cricklade, the persons so having a right to vote for such freeholds shall be inserted in the list of voters of the least populous of such adjoining parishes or townships, according to the then last census.

WILL. IV.
1830.

35. Provided that no person shall vote in the election of members for any city or borough (other than a city or town being a county of itself, in the election for which freeholders or burgage tenants have a right to vote as hereinbefore mentioned,) in respect of any estate or interest in any burgage tenement or freehold acquired by him since the first day of March 1831, unless the same shall have come to or been acquired by such person since that day, and previously to the passing of this act, by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church, or to any office.

Rights in boroughs acquired since 1st of March 1831.

36. And that no person shall be registered as a voter in the election of members for any city or borough who shall, within twelve calendar months next previous to the last day of July in such year, have received parochial relief or other alms which by law now disqualify from voting in elections.

Parochial relief.

DIVISION IV.—*County Registration.*

37. And whereas it is expedient to form a register of all persons entitled to vote in the election of a knight or knights of the shire to serve in any future parliament, and that for the purpose of forming such register the overseers of every parish and township should annually make out lists in the manner herein-after mentioned : Be

Notice to county voters to send in claims.

WILL. IV.
1830.

it enacted, that the overseers of the poor of every parish and township shall on the twentieth of June in every year cause to be fixed on or near the doors of all the churches and chapels within such parish or township, or, if there be no church or chapel therein, then in some public and conspicuous situation within the same, a notice in form 1, in Schedule (H.), requiring all persons entitled to vote in the election of knights of the shire, in respect of any property situate wholly or in part in such parish or township to deliver or transmit to the said overseers on or before the twentieth day of July in every year a notice of their claim in form 2, in Schedule (H.), or to the like effect :

No claim necessary when once on the register.

PROVIDED always, that after the formation of the register to be made in each year, as after mentioned, no person whose name shall be upon such register shall be required thereafter to make any such claim so long as he shall retain the qualification, and continue in the place of abode described in such register.

Overseers to prepare lists of county voters yearly.

38. And that the overseer of every parish and township shall on or before the last day of July in the present year make out or cause to be made out, in form 3, in Schedule (H.), an alphabetical list of all persons who shall claim to be inserted as voters in the election of knights of the shire for the county, or for the riding, parts, or division of the county wherein such parish or township lies, in respect of any lands or tenements wholly or in part within such parish or township ; AND that the said overseer shall on or before the last day of July in every succeeding year make out or cause to be made out a like list, containing the names of all persons who shall be upon the register for the time being as such voters, and also the names of all persons who shall claim as aforesaid to be inserted in such last-mentioned list as such voters ; AND in every list so to be made the christian name and surname of every person shall be written at full length, together with the place of his abode, the nature of his qualification, and the local or other description of such lands or tenements, as the same are set forth in his claim, and the name of the occupying tenant, if stated in such claim ; AND the said overseers, if they shall have reasonable cause to believe that any person so claiming, or whose name shall appear

Overseers' power of objecting.

in the register for the time being, is not entitled to vote, shall have power to add the words "objected to" opposite his name on the margin of such list; AND the said overseers shall sign such list, and shall cause a sufficient number of copies thereof to be written or printed, and to be fixed on or near the doors of all the churches and chapels within their parish or township, or, if there be no church or chapel therein, then in some public and conspicuous situation within the same, on the two sundays next after such list shall have been made; AND the overseers shall keep a true copy of such list, to be perused by any person without fee, at all reasonable hours during the two first weeks after it shall have been made: PROVIDED always, that every precinct or place, whether extra-parochial or otherwise, which shall have no overseers of the poor, shall for the purpose of making out such list be deemed to be within the parish or township adjoining thereto, such parish or township being situate within the the same county, or the same riding, parts, or division of a county, as such precinct or place; AND if such precinct or place shall adjoin two or more parishes or townships so situate as aforesaid, it shall be deemed to be within the least populous according to the last census; AND the overseers of every such parish or township shall insert in their list the names of all persons who shall claim as aforesaid to be inserted therein as voters in the election of knights of the shire, in respect of any lands or tenements wholly or in part in such precinct or place.

WILL. IV.
1830.

Copies for
inspection.

As to places
having no
overseers.

39. And that every person upon the register for the time being of voters for any county, or for any riding, parts, or division of a county, or who shall have claimed to be inserted in any list for the then current year, may object to any person as not having been entitled on the last day of July then preceding to have his name inserted in any list for such county, riding, parts, or division to be made out as aforesaid; AND every person so objecting (save and except overseers objecting as before mentioned) shall, on or before the twenty-fifth day of August in every year, give or cause to be given a notice in form 4, in Schedule (H.), or to the like effect, to the overseers who shall have made out the list in which the name so objected to

Notice of ob-
jection by
third parties.

WILL. IV.
1830.

Lists to be
published.

shall have been inserted; AND the person so objecting shall also, on or before the twenty-fifth day of August in every year, give to the person objected to, or leave at his place of abode as described in such list, or personally deliver to his tenant in occupation of the premises described in such list, a notice in writing in form 5, in Schedule (H.), or to the like effect; AND the overseers shall include the names of all persons so objected to in a list in form 6, in Schedule (H.), and shall cause copies of such list to be fixed on or near the doors of all churches and chapels within their parish or township, or if there be no church or chapel therein, then in some public and conspicuous situation within the same, on the two Sundays next preceding the fifteenth day of September in every year; and the overseers shall likewise keep a copy of the names so objected to, to be perused by any person, without fee, at all reasonable hours during the ten days next preceding the said fifteenth day of September in every year.

Lists of voters to be forwarded to clerks of the peace.

40. And that on the twenty-ninth day of August in every year, the overseers of every parish and township shall deliver the list of voters so made out, together with a written statement of the number of persons objected to by the overseers and by other persons, to the high constable of the hundred or other like district in which such parish or township is situate; and such high constable shall forthwith deliver all such lists and statements to the clerk of the peace of the county, riding, or parts, who shall forthwith make out an abstract of the number of persons so objected to in each parish and township, and transmit the same to the barrister appointed as after mentioned, in order that the barrister may fix proper times and places for holding his court.

DIVISION V.—*County Revisers.*

Judges of assize to name barristers to revise the county lists.

41. And that the lord chief justice of the court of King's Bench shall, in July or August in every year, appoint for Middlesex, and the senior judge in the commission of assize for every other county shall, when travelling the summer circuit in every year, appoint for every such county, or each of the ridings, parts, or divisions thereof, a barrister or barristers to revise the lists

of voters in the election of knights of the shire ; and such barrister or barristers shall give public notice, by advertisement in some of the newspapers circulating within the county, riding, parts, or division, and by a notice fixed in some public and conspicuous situation at the principal place of election for the county, riding, parts, or division, (such last notice to be given three days at the least before the commencement of his circuit,) that he or they will make a circuit of the county, riding, parts, or division for which he or they shall be so appointed, and of the times and places at which he or they will hold courts, such times being between the fifteenth of September and twenty-fifth of October both inclusive, and he or they shall hold open courts for that purpose accordingly ; and where two or more barristers shall be appointed for the same county, riding, parts, or division, they shall attend together, but shall sit apart and hold separate courts at the same time for the dispatch of business : PROVIDED that no member of parliament, nor any person holding any office or place of profit under the crown, shall be so appointed, and that no barrister so appointed shall be eligible to serve in parliament for eighteen months from such appointment for the county, riding, parts, or division for which he shall be so appointed.

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Period.

42. And that the clerk of the peace shall, at the opening of the first court to be held by every such barrister for any county, riding, parts, or division, produce or cause to be produced before him the lists of voters delivered to such clerk of the peace by the high constables ; and the overseers who shall have made out the lists shall attend the court at the place appointed for revising the lists of such parish or township, and deliver to such barrister a copy of the list of persons objected to, made out by them ; and shall answer upon oath all such questions as such barrister may put to them touching any matter necessary for revising the lists ; and such barrister shall retain on the lists the names of all persons to whom no objection shall have been made, and the name of every person objected to by any person other than the overseers, unless the party objecting shall appear by himself or by some one on his behalf in support of such objection ; and where the name of any per-

Proceedings
before bar-
risters.

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1830.

Mistakes and
omissions.

son inserted in the list shall have been objected to by the overseers, or by any other person as before mentioned, and such person so objecting shall so appear in support of such objection, the barrister shall require it to be proved that the person objected to was entitled on the last day of July next preceding to have his name inserted in the list in respect of the qualification described in such list; and in case the same shall not be proved to the satisfaction of such barrister, or it shall be proved that such person was then incapacitated by law or statute from voting, such barrister shall expunge his name from the lists, and also the name of every person proved to be dead; and shall correct any mistake proved to have been made in the lists as to any of the particulars required to be inserted; and where the christian name of any person, or his place of abode, or nature of qualification, or the local or other description of his property, or the name of the tenant in occupation, as required to be inserted, shall be wholly omitted, he shall expunge the name of every such person unless the matter omitted be supplied to his satisfaction before completing the revision of such list, in which case he shall insert it: PROVIDED that no person's name shall be expunged, except in case of his death or of his being objected to on the margin of the list by the overseers, or except in case of any such omission as before last mentioned, unless such notice as is before required shall have been given to the overseers, nor unless such notice as before required shall have been given to such person, or left at his abode, or delivered to his tenant as before mentioned.

Power to insert names of claimants on proof.

43. Provided that if any person who shall have given due notice of claim to have his name inserted in the list of voters in the election of knights of the shire shall have been omitted, the barrister may insert his name if it shall be proved to his satisfaction that such person gave due notice of claim, and was entitled on the last day of July then preceding to be inserted in the list, in respect of any lands or tenements within such parish or township.

DIVISION VI.—*Borough Registration.*

44. And that the overseers of the poor of every parish

and township wholly or in part situate within any city or borough, or place sharing in the election therefore, returning a member to parliament, shall, on or before the last day of July in the present and each succeeding year, make out or cause to be made out in form 1, in Schedule (I.), an alphabetical list of all persons entitled by this act to vote for such city or borough in respect of the occupation of premises of not less than ten pounds value as before mentioned, situate wholly or in part within such parish or township, and another alphabetical list in form 2, in Schedule (I.), of all other persons (except freemen) entitled to vote by virtue of any other right; and in each list the christian and surname of every person shall be written at full length, with the nature of his qualification; and where any person shall be entitled to vote in respect of property, the name of the street, lane, or other description of the place where such property may be situate shall be specified; and where any person shall be entitled to vote otherwise than in respect of property, the name of the street, lane, or other description of the place of his abode shall be specified; and the overseers shall sign each list, and cause a sufficient number of copies thereof to be printed and fixed on or near the doors of all the churches and chapels in their parishes and townships, or, if there be no church or chapel, then in some public and conspicuous situation within the same, on the two Sundays next after making such lists, and shall keep true copies, to be perused by any person without fee, at all reasonable hours during the two first weeks after making such lists.

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Overseers' lists of persons (other than freemen) to vote in boroughs.

45. And that every precinct or place, whether extra-parochial or otherwise, having no overseers of the poor, now or hereafter within any city or borough, or place sharing therewith, shall, for making out the list, be deemed within the parish or township adjoining thereto, and situate wholly or in part within such city or borough, or place sharing therewith; and if such precinct or place shall adjoin two or more such parishes or townships, it shall be deemed within the least populous according to the then last census; and the overseers of every such parish or township shall insert in the list for their respective parish or township the names of all persons who may be en-

Places having no overseers.

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titled to vote in elections for any such city or borough in respect of any property occupied by such persons within such city or borough, or place sharing therewith, such property being situate wholly or in part within such precinct or place.

Town-clerks
lists of free-
men.

46. And that the town-clerk of every city or borough shall, on or before the last of July in the present and each succeeding year, make out in form 3, in Schedule (I), an alphabetical list of all the freemen entitled to vote for such city or borough with the places of their abode; and the town-clerk of every place sharing in the election for any city or borough shall, at the times aforesaid, make out or cause to be made out a like list of all the freemen of such place entitled to vote for such city or borough; and every town-clerk shall cause a copy of every list to be fixed on or near the door of the town hall, or in some public and conspicuous situation within such city, borough, or place, on the two Sundays next after making such list, and shall keep a true copy thereof, to be perused by any person without fee, at all reasonable hours during the two first weeks after making such list: PROVIDED that where there shall be no town-clerk, or where he shall be dead or incapable of acting, all matters required to be done by and to the town-clerk shall be done by and to the person executing duties similar to his, and if no such person, then by and to the chief civil officer.

Persons
omitted, to
give notice
of claim.

47. And that every person whose name shall have been omitted in any such list for any city or borough, and who shall claim to have his name inserted as entitled on the last day of July then preceding, shall, on or before the twenty-fifth day of August in the present and every succeeding year, give or cause to be given a notice in form 4, in Schedule (I.), or to the like effect, to the overseers of that parish or township in the list whereof he shall claim to be inserted, or if he shall claim as a freeman of any city or borough, or place sharing in the election therewith, then to the town-clerk thereof; and every person whose name shall be inserted in any list for any city or borough may object to any other person as not entitled to have his name inserted, and shall on or before the twenty-fifth day of August, give or cause to be given a notice in the form 5,

Notices of
objections.

in Schedule (I.), or to the like effect, to the overseers who shall have made out the list, or, if inserted in the list of freemen, then to the town-clerk; and the overseers shall include the names of all so claiming in a list in form 6, in Schedule (I.), and the names so objected to in a list in form 7, in Schedule (I), and shall cause copies of such two lists to be fixed on or near the doors of all the churches and chapels within their parish or township, or if no church or chapel, then in some public and conspicuous situation within the same, on the two Sundays next preceding the fifteenth of September; and every town-clerk shall include the names of all persons so claiming as freemen in a list in form 8, in Schedule (I.), and the names of all persons objected to as freemen in a list in form 9, in Schedule (I.), and cause copies of such two lists to be fixed on or near the door of the town hall, or in some public and conspicuous situation within his city, borough, or place, on the two Sundays before mentioned in every year; and the overseers and town-clerks shall keep a copy of the names of all the persons claiming, and a copy of the names of all persons objected to, to be perused by any person without fee, at all reasonable hours during the ten days next preceding the said fifteenth day of September in every year, and deliver a copy of each list to any person requiring, for one shilling each copy.

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Lists of
claimants'
objections.

48. And that the returning officer of the city of London shall, on or before the last day of July in each year, issue precepts to the clerks of the livery companies, requiring them forthwith to make out or cause to be made out, at the expense of the company, an alphabetical list in the form in Schedule (K.), of the freemen being liverymen of the said companies entitled to vote; and every such clerk shall sign such list and transmit the name, with two printed copies thereof, to such returning officer, who shall forthwith fix one copy in the Guildhall and one in the Royal Exchange, there to remain fourteen days in every year; and the clerks of the companies shall cause a sufficient number of such lists to be printed at the expense of the companies and shall keep the same to be perused by any person without fee, at all reasonable hours during the two first weeks after such lists shall have been printed; and every person

List of
liverymen of
London.

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 Omissions and objections in list of liverymen.
 whose name shall have been omitted in any such list, and claiming to have his name inserted as entitled on the last day of July next preceding, shall, on or before the twenty-fifth day of August in every year, give or cause to be given a notice in form 1, in Schedule (K.) or to the like effect, to the returning officer and to the clerk of his company; and the returning officer shall include the names of all so claiming in a list in form 2, in Schedule (K.) and cause such list to be fixed in the Guildhall and Royal Exchange on the two Mondays preceding the fifteenth day of September in every year; and the returning officer and clerks of companies shall keep a copy of the names of all persons so claiming, to be perused by any person without fee, at all reasonable hours during the ten days preceding the said fifteenth of September; and every person objecting to any other person as not entitled to have his name in any such livery list shall, on or before the twenty-fifth day of August in every year give to such other person, or leave at his usual place of abode, a notice in form 3, in Schedule (K.) or to the like effect; AND in London the returning officer shall take the poll of liverymen in Guildhall; and shall not be required to provide any booth or compartments, but shall take one poll for the whole of such liverymen at the same place.

Poll of liverymen at Guildhall.

DIVISION VII.—*Borough Revisers.*

Judges to name barristers to revise borough lists.

49. And that the lord chief justice of the court of King's Bench shall in July or August in every year appoint so many barristers as he shall deem necessary, to revise the lists of voters for London, and for Westminster, and the several boroughs in Middlesex; and that the senior judge in the commission of assize for every other county shall, when travelling the summer circuit in every year, appoint so many barristers as he shall deem necessary, to revise the lists for the cities and boroughs in every such county, and for every city and town, and county of a city and town next adjoining to any such county; and Kingston-upon-Hull shall be considered as next adjoining to the county of York, and Newcastle-upon-Tyne as next adjoining to Northumberland, and Bristol as next adjoining to Somerset; and the said lord

chief justice and judge may appoint one or more barristers to revise the lists for the same city or borough or other place, or one barrister only to revise the lists for several cities, boroughs, and other places; PROVIDED that no member of parliament, nor any person holding any office or place of profit under the crown, shall be so appointed, and that no such barrister shall be eligible to serve in parliament for eighteen months from his appointment for any place for which he shall be so appointed: PROVIDED also, that nothing herein contained shall prevent the same barrister from being appointed to revise the lists for two or more counties, ridings, parts, or divisions, or for any county, riding, parts, or division, and any one or more of the cities or boroughs therein.

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50. And that the barristers so appointed to revise lists for any city or borough shall hold open courts for that purpose within such city or borough, and also within every place sharing in the election therewith, at some time between the fifteenth of September and twenty-fifth of October both inclusive in every year, having first given three clear days notice of holding of such courts, to be fixed on the doors of all the churches and chapels within such city, borough, or place respectively, or, if no church or chapel, then in some public and conspicuous situation within the same; and the overseers and town-clerks who shall have made out the lists, and in the case of London the returning officer of the city, shall, at the opening of the first court to be held for revising lists, produce their lists; and they shall also deliver to such barrister a copy of the list of persons objected to, made out by them, and the clerks of the livery companies of London and town-clerk of every other city or borough, or place sharing therewith, and the overseers in every city, borough, or place, shall attend the court to be held by such barrister, and answer upon oath all such questions as he may put to them touching any matter necessary for revising the lists; and he shall insert in such lists the name of every person proved to his satisfaction to have been entitled on the last day of July next preceding to have his name inserted in the list; and he shall retain on the lists the names of all persons not objected to, and shall retain on the lists the name of every

Barrister's
proceedings.

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Mistakes and
omissions.

person objected to, unless the party objecting shall appear by himself or some one on his behalf in support of such objection; and where any person shall have been objected to, and the person objecting shall appear by himself or by some one on his behalf, in support of such objection, every barrister shall require it to be proved that the person objected to was entitled on the last day of July next preceding to have his name inserted in respect of the qualification described in such list; and if not proved to his satisfaction, or if it shall be proved that such person was then incapacitated by any law or statute from voting, such barrister shall expunge his name from the lists, and shall expunge from the lists the name of every person proved to him to be dead, and correct any mistake proved to him to have been made in any of the lists as to any of the particulars required to be inserted; and where the christian name, or place of abode, or nature of qualification, or local description of the property of any person included in any list, shall be wholly omitted in any case where the same is directed to be specified, such barrister shall expunge his name from such list, unless the matter omitted be supplied to his satisfaction before completing the revision of such list, in which case he shall insert the same; PROVIDED that no name shall be inserted by such barrister in any list for any city or borough, or expunged therefrom, except in case of death, or of such omissions as last mentioned, unless notice shall have been given as before required.

DIVISION VIII.—*General provisions as to Revising, &c.*

Power to in-
spect tax and
rate books.

51. And that the overseers of every parish or township shall (upon request, between the first day of June and the last of July in any year, to any assessor or collector of taxes, or other officer having custody thereof,) have liberty to inspect duplicate or tax assessments, and to extract such particulars as may appear necessary; and every barrister may require any assessor, collector of taxes, or other officer having the custody of any duplicate or tax assessment, or any overseer or overseers having the custody of any poor rate, to produce the same before him to assist in revising the lists.

52. And that every barrister holding any court may adjourn from time to time, and from one place to another within the same county, riding, parts, or division, city, borough, or place sharing therewith, but so as that no such adjourned court shall be held after the twenty-fifth of October in any year; and every such barrister may administer an oath (or, in the case of a Quaker or Moravian, an affirmation,) to all persons making objection to the insertion or omission of any name in any list, or objected to or claiming to be inserted in any list, or claiming to have any mistake corrected or omission supplied, and to all witnesses tendered on either side; and that any person taking any oath or making any affirmation under this act and wilfully swearing or affirming falsely, shall be guilty of perjury and punished accordingly; and that at the holding of such courts the parties shall not be attended by counsel; and that every such barrister shall, upon the hearing in open court, finally determine upon the validity of such claims and objections, and for that purpose have the same powers and proceed in the same manner (except where otherwise directed by this act) as any returning officer according to the laws and usages at elections; and shall in open court write his initials against the names struck out or inserted, and against any part of the lists in which any mistake is corrected or omission supplied, and sign his name to every page of the lists.

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Barrister to
have power
of adjourn-
ing, &c.

and to settle
and sign lists.

53. And that if it appear to the lord chief justice or judge who shall have appointed any barrister, that by reason of death, illness, or absence, or insufficiency of number, or any other cause, such lists cannot be revised within the period directed by this act, such lord chief justice or judge may and is required to appoint one or more barristers to act in the place of or in addition to those originally appointed; and barristers so subsequently appointed shall have the same powers as if originally appointed.

Additional
barristers in
case of need.

DIVISION IX.—*Transmission, Expenses, &c. of Lists.*

54. And that the lists of voters for each county, riding, parts, or division so signed by such barrister, shall be forthwith transmitted by him to the clerk of the peace,

Transmis-
sion of lists.

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Boroughs,

To be the register.

How long to be in force.

Copies to be printed.

55. And that the overseers of every parish and township shall cause to be written or printed copies of the lists made in every year, and deliver such copies to all persons applying on payment of a reasonable price; and the monies arising from the sale shall be accounted for by them and applied as monies collected for the relief of the poor; and the clerks of the peace shall cause to be written or printed copies of the registers of electors for their respective counties, ridings, or parts, or divisions of counties; and the returning officer of every city or borough shall cause to be written or printed copies of the register of electors for

such city or borough; and every such clerk of the peace and returning officer shall deliver copies to all persons applying, on payment of a reasonable price; and the monies so arising shall be accounted for to the treasurer of the county, riding, or parts.

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56. And that for defraying the expences incurred by the overseers of the poor and by the clerk of the peace in carrying into effect the provisions of this act, so far as relates to the electors for any county, or for any riding, parts, or division of a county, every person upon giving notice of his claim to the overseers, shall pay to the overseers one shilling, and such claim shall not be valid until payment; and overseers shall add all monies so received to the money collected for the relief of the poor, and such monies shall be applicable as monies so collected; and that for defraying the expences incurred by the returning officer of every city and borough, and by the overseers of parishes and townships therein, and places sharing therewith, every elector whose name shall be upon the register of voters for such city or borough for the time being shall be liable to pay one shilling annually, which shall be levied and collected from each elector in addition to and as a part of the money payable as his contribution to the poor rate, and shall be applicable to the same purposes; and that the expences incurred by overseers in making out, printing, and publishing the lists and notices, and all other expences incurred in carrying into effect this act, shall be defrayed out of the money collected for the relief of the poor in the parish or township; and that all expences incurred by the returning officer of any city or borough in causing the lists of electors for such city or borough to be copied out and made into a register, and in causing copies to be written or printed, shall be defrayed by the overseers of the several parishes and townships within such city or borough, or place sharing therewith, out of the money collected for the relief of the poor, in proportion to the number of persons placed on the register for each parish or township; and that all expences incurred by the clerk of the peace of any county, riding, or parts in causing the lists of the electors to be copied out and made into a register, and in causing copies to be written or printed, and

Expences of
overseers,
clerks of the
peace, &c.

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in otherwise carrying into effect this act, shall be defrayed by the treasurer of such county, riding, or parts out of any public money in his hands, and he shall be allowed all such payments in his accounts: Provided that no expences incurred by any clerk of the peace under this act shall be so defrayed unless the account be laid before the justices of the peace at the next quarter sessions and allowed by the court.

Remunera-
tion of bar-
risters.

57. And that every barrister appointed to revise lists under this act shall be paid five guineas for every day he shall be so employed, above his travelling and other expences; and after his last sitting, shall lay or cause to be laid before the commissioners of his majesty's treasury a statement of the number of days he shall have been so employed, and an account of the travelling and other expences incurred by him, and they shall make an order for the amount to be paid him.

DIVISION X.—*Elections, Oaths, &c.*

No inquiry
at election,
except as to
identity, &c.

58. And that in elections no inquiry shall be permitted at polling, as to the right of any person to vote, except that the returning officer or his deputy shall, if required on behalf of any candidate, put to any voter at his tendering his vote, and not afterwards, the following questions, or any of them, and no other:

Form.

1. Are you the same person whose name appears as A. B. on the register of voters now in force for the county of ——— [or for the ——— riding, parts, or division, &c. or for the city, &c. *as the case may be*]?
 2. Have you already voted, either here or elsewhere, at this election for the county of ——— [or for the ——— riding, parts, or division of the county of ———, or for the city or borough of ——— *as the case may be*]?
 3. Have you the same qualification for which your name was originally inserted in the register of voters now in force for the county of, &c. [or for the ——— riding, &c. or for the city, &c. *specifying the particulars of qualification in the register*]?
 - And if any person shall wilfully make false answer, he shall be deemed guilty of an indictable misdemeanor, and

Oath.

punished accordingly; and the returning officer or his deputy, or a commissioner or commissioners for that purpose by him appointed, shall (if required on behalf of any candidate) administer an oath (or, in case of a Quaker or Moravian, an affirmation,) to any voter in this form;

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“You do swear, [*or, being a Quaker or Moravian, do affirm,*] that you are the same person whose name appears as A. B. on the register of voters now in force for the county of ——— [*or for the ——— riding, parts, or division of the county of ——— or for the city or borough of ——— as the case may be*], and that you have not before voted, either here or elsewhere, at the present election for the said county [*or for the said riding, parts, or division of the said county, or for the said city or borough, as the case may be*]. So help you God.”

Form.

And no elector shall be required to take any oath or affirmation, except as aforesaid, either in proof of his freehold or residence, age, or other qualification, or right to vote; and no person claiming to vote at any such election shall be excluded, except by reason of its appearing, upon putting such questions, that he is not the same person appearing on such register, or that he has previously voted, or that he has not the same qualification, or except by reason of refusing to take the said oath or affirmation or the oath or affirmation against bribery, or any other oath or affirmation now required by law, and not hereby dispensed with; and no scrutiny shall be allowed by or before any returning officer.

No other
oath.

No scrutiny.

59. Provided that any person whose name shall have been omitted from any register of voters by the decision of the barrister revising the lists may tender his vote at an election, stating the names of the candidates for whom he tenders such vote, and the returning officer or his deputy shall enter upon the poll book every vote so tendered, distinguishing the same from the votes admitted and allowed.

Persons excluded from register may tender votes.

60. Provided that upon petition to the house of Commons, complaining of an undue election or return, any petitioner, or person defending such return, may impeach the correctness of the register in force at such election, by proving that by the decision of the barrister the name

Register questionable before committee of Commons.

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of any person who voted was improperly inserted, or the name of any person who tendered his vote improperly omitted; and the select committee for the trial of such petition shall alter the poll taken according to the truth of the case, and report their determination to the house, which shall carry such determination into effect, and the return shall be amended, or the election declared void, as the case may be, and the register corrected accordingly, or such other order made as shall seem proper.

DIVISION XI.—*County Polls.*

Sheriffs of
divided
counties.

61. And that the sheriffs of Yorkshire and Lincolnshire, and the sheriffs of the counties divided by this act, shall duly cause proclamation to be made of the days fixed for the election of knights of the shire for the several ridings, parts, and divisions of their counties, and preside at the election by themselves or their lawful deputies.

Polls,

62. And that at every contested election of knights for any county, riding, parts, or division, the polling shall commence at nine in the forenoon of the next day but two after the day fixed for the election, unless such next day but two shall be Saturday or Sunday, and then on the Monday following, at the principal place of election, and also at the several places to be appointed as after directed for taking polls; and such polling shall continue for two days only, being successive days; for seven hours on the first day, and eight hours on the second day of polling; and no poll shall be kept open later than four in the afternoon of the second day.

Districts for
polling.

63. And that the counties in England and Wales, ridings, parts, and divisions of counties, shall be divided into convenient districts for polling; and in each district shall be appointed a convenient place for taking the polls; and such districts and places shall be appointed by the act to be passed in this parliament for settling the divisions of the counties in Schedule (F.); provided that no county, riding, parts, or division, shall have more than fifteen districts and places appointed for taking the poll.

Booths at
polling
places for
counties.

64. And that at every contested election for any county, riding, parts, or division, the sheriff or deputy shall, if required by any candidate on the day fixed for election,

and if not required, may if it appear to him expedient, cause to be erected a reasonable number of booths for taking the poll at the principal place of election, and at each polling place, and cause to be affixed on the most conspicuous part of each booth the names of the parishes, townships, and places for which such booth is allotted; and no person shall vote for any property in any parish, township, or place, except at the booth allotted thereto, and if no booth be so allotted, then at any booth for the district; and in case any parish, township, or place shall not be included in any district to be appointed, the votes for property in any place so omitted shall be taken at the principal place of election for the county, riding, parts, or division.

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No voter to
poll out of
his district.

65. And that the sheriff shall have power to appoint deputies to preside and clerks to take the poll at the principal place of election, and at the places for taking the poll for any county or riding, parts or division; and that the poll clerks at those places shall at the close of each day's poll enclose and seal their books, and publicly deliver them to the sheriff, under-sheriff, or deputy presiding, who shall give a receipt for the same, and shall, on the commencement of the poll on the second day, deliver them back, so enclosed and sealed, to the persons from whom he received them; and on the final close of the poll every such deputy who shall have received any poll books shall forthwith deliver or transmit the same, so enclosed and sealed, to the sheriff or his under-sheriff, who shall receive and keep all the poll books unopened until the re-assembling of the court on the day next but one after the close of the poll, unless such next day but one shall be Sunday, and then on the Monday following, when he shall openly break the seals, and cast up the number of votes, and openly declare the state of the poll, and make proclamation of the members chosen, not later than two o'clock in the afternoon of the said day.

Sheriff's de-
puties, cus-
tody of poll
books, &c.

66. And that in all matters relative to the election of knights of the shire, the sheriff, his under-sheriff, or any lawful deputy, may act in all places having any exclusive jurisdiction or privilege as he may act in any part of such sheriff's ordinary jurisdiction.

Places of ex-
clusive juris-
diction.

WILL. IV.
1830.

Polls at bo-
rough elec-
tions.

Divisions of
booths,

A deputy to
preside.

DIVISION XII.—*City or Borough Polls.*

67. And that at every contested election for any city or borough in England, except Monmouth, the poll shall commence on the day fixed for the election, or the next day, or at latest on the third day, unless any of the said days shall be Saturday or Sunday, and then on the Monday following the particular day for the commencement of the poll fixed by the returning officer; and such polling shall continue for two days only, being successive days, for seven hours on the first day, and eight hours on the second day; and the poll shall not be kept open later than four in the afternoon of such second day.

68. And that at every contested election for any city or borough in England, except Monmouth, the returning officer shall, if required by any candidate, on the day for election, and if not so required may, if it appear to him expedient, cause to be erected different booths for different parishes, districts, or parts, which booths may be either in one place or several places, and shall be so divided into compartments as to him shall seem most convenient, so that no more than six hundred shall be required to poll at any one compartment; and the returning officer shall appoint a clerk to take the poll at each compartment, and shall cause to be affixed on the most conspicuous part of each booth the names of the parishes, districts, and parts for which such booth is allotted; and no person shall vote except at the booth of the parish, district, or part wherein the property is for which he claims to vote, or, if he does not claim to vote for property, then wherein his place of abode in the register may be; but in case no booth shall be provided for any parish, district, or part as aforesaid, the votes of persons voting in respect of property situate in any part so omitted, or having their abode therein, may be taken at any booth, and the votes of freemen residing out of the city or borough may be taken at any booth; and public notice of the situation and allotment of the booths shall be given two days before the poll; and if the booths shall be in different places, the returning officer may appoint a deputy to preside at each place; and at every election the poll clerks at the close of each day's poll shall enclose and seal their poll books, and shall pub-

licly deliver them so to the returning officer or his deputy, who shall give a receipt, and shall, on the commencement of the poll on the second day, deliver them back so to the persons from whom he shall have received the same; and every deputy so receiving any such books, on the close of the poll, shall forthwith deliver or transmit the same, so enclosed and sealed, to the returning officer, who shall receive and keep all the poll books unopened until the following day, unless such day be Sunday, and then till the Monday following, when he shall openly break the seals and cast up the number of votes, and openly declare the state of the poll, and make proclamation of the members chosen, not later than two in the afternoon of the day: Provided that the returning officer, or his lawful deputy, may if he think fit, declare the final state of the poll, and proceed to make the return immediately after the poll shall have been lawfully closed: Provided also, that no nomination shall be made or election holden in any church, chapel, or other place of worship.

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1830.

Custody of
poll books,
&c.

69. Provided that as to the boroughs of New Shoreham, Cricklade, Aylesbury, and East Retford, as defined by this act, such boroughs shall be divided into convenient districts for polling, and there shall be appointed in each a convenient place for taking the poll, which districts and places for taking the poll shall be settled by an act to be passed in this parliament.

Polling at
Shoreham,
&c.

DIVISION XIII.—*General Polling Provisions.*

70. And that nothing in this act contained shall prevent any sheriff or returning officer from closing the poll before the time fixed by this act, where the same might have been closed before this act; and that where the proceedings at any election shall be interrupted by any riot or open violence, the sheriff or returning officer, or lawful deputy, shall not for such cause finally close the poll, but, if the proceedings shall be so interrupted at any polling place, shall adjourn the poll at such place only till the following day, and if necessary further adjourn the same until such interruption shall cease, when he shall again proceed to take the poll at such place: and any day whereon the poll shall have been so adjourned shall not as to such place

Power to
close the poll
before time
fixed.

Adjourn-
ment of poll
in case of
riot.

WILL. IV. 1830. be reckoned one of the two days of polling; and wherever the poll shall have been so adjourned by any deputy, he shall forthwith give notice thereof to the sheriff or returning officer, who shall not finally declare the state of the poll, or make proclamation of the members chosen, until the poll so adjourned shall have been finally closed and delivered.

Expence of
booths and
poll clerks.

Limitation.

71. And that after this parliament all booths erected for taking polls shall be erected at the joint expence of the candidates, and shall be erected by contract with the candidates, if they shall think fit, or if not, shall be erected by the returning officer at the expence of the candidates, subject to such limitation as next mentioned; (that is to say,) that the expence of the booth or booths at the principal place of election for any county, riding, parts, or division, or any of the polling places to be appointed as aforesaid, shall not exceed forty pounds in respect of any one such principal or polling place; and that the expence to be incurred for any booth or booths for any parish, district, or part of any city or borough shall not exceed twenty-five pounds for any one such parish, district, or part; and that all deputies appointed by returning officer shall be paid each two guineas by the day, and all clerks taking the poll one guinea by the day, at the expence of the candidates; PROVIDED that if any person be proposed without his consent, the person proposing him shall be liable to defray his share of the said expences as if he had been a candidate; Provided also, that the sheriff or returning officer may, if he think fit, instead of erecting booths, procure or hire any houses or buildings for taking the poll, subject to the same regulations as are before mentioned with regard to booths.

Houses may
be hired.

Copies of re-
gister for
booths.

72. And that the returning officer shall, before the day fixed for the election, cause to be made for each booth or polling place, a copy of the register of voters, and shall under his hand certify such copy to be true.

Deputies.

73. And that every deputy of a sheriff or other returning officer shall have the same power of administering oaths and affirmations, and of appointing commissioners, as the sheriff or other returning officer has by this or any other act, and subject to the same regulations as such sheriff or returning officer.

74. Contains particular provision as to the mode of polling for Monmouth, Swansea, Brecon, and other Welsh boroughs. WILL. IV.
1830.

DIVISION XIV.—*General Provisions.*

75. And that all laws, statutes, and usages in force respecting the election of members for England and Wales, shall remain in force, and apply to the election of members for the counties, ridings, parts, and divisions, hereby empowered to return members, as fully as if they had heretofore returned members, except so far as repealed or altered by this act, or as inconsistent with the provisions thereof. All election laws to remain in force except where superseded by this act.

76. And that if any sheriff, returning officer, barrister, overseer, or any person whatsoever, shall wilfully contravene or disobey the provisions of this act, he shall be liable to be sued for five hundred pounds, and the jury may find their verdict for the full sum, or any less sum, with full costs of suit, to the party suing, such action to be brought only by an elector or claiming to be an elector, or a candidate, or a member actually returned, or other party aggrieved; and the remedy hereby given against the returning officer not to supersede any present remedy or action against him. Penalties on officers for breach of duty.

77. And that all writs for elections, and all mandates, precepts, proceedings, and notices consequent thereupon, shall be framed as may be necessary for the carrying this act into effect. Writs, &c. to be conformable to act.

78. Provided that nothing herein shall affect the election of members for the universities of Oxford or Cambridge, or entitle any person to vote for the city of Oxford or town of Cambridge in respect of the occupation of any chambers or premises in any of the colleges or halls of the universities. Oxford and Cambridge.

79. And that wherever “city or borough,” may occur, those words shall include, except there be something in context manifestly repugnant to such construction, all towns corporate, cinque-ports, districts, or places within England and Wales entitled after this act to return members, other than counties at large, and ridings, parts, and divisions of counties, and also Berwick-upon-Tweed; and “returning officer” shall apply to every person to whom Of the sense of words “City or borough:”
“Returning officer:”

WILL. IV.
1830.

"Parish or
township:"

"Overseers
of the poor:"

"Justices of
the peace,"
&c.

Misnomer.

the execution of any writ or precept doth or shall belong, by whatever title called; and "parish or township" shall extend to every parish, township, vill, hamlet, district, or place maintaining its own poor; and "overseers of the poor" to all persons who shall execute the duties of overseers of the poor, by whatever name or title, and in whatever manner appointed; and that all matters directed to be done by overseers may be done by the major part of such overseers; and that wherever any notice is required to be given to overseers, it shall be sufficient if delivered to any one of such overseers, or left at his abode, or office or other place for transacting parochial business, or sent by post, addressed by a sufficient direction, to the overseers of the parish or township, or to any one of them, either by christian name and surname, or by name of office; and that all provisions relative to matters to be done by or to justices of the peace, or sessions of the peace for counties, or clerks of the peace, or treasurers of counties, shall extend to those of the ridings of Yorkshire and parts of Lincolnshire, and that the clerk of the peace for Newport in the Isle of Wight shall be deemed to be the clerk of the peace for the county of the Isle of Wight, and that all the said justices, sessions, and clerks of the peace may do the several matters required by this act, as well within places of exclusive jurisdiction as without; and that no misnomer or inaccurate description of any person or place in any schedule, or in any list or register of voters, or in any notice required by this act, shall prevent or abridge the operation of this act as to such person or place, provided that such person or place shall be so designated as to be commonly understood.

80. Provides for the event of the boundary act not passing as contemplated.

81. Provides for the case of a dissolution before registration.

82. Provides as to the division of counties in the event of a dissolution before the boundary act.

SCHEDULE (C.)

WILL. IV.
1830.

<i>Boroughs.</i>	<i>Returning Officers.</i>
Birmingham	The Two Bailiffs.
Blackburn	
Bolton	The Boroughreeves.
Bradford	
Brighton	
Devonport	
Finsbury	
Greenwich	
Halifax	
Lambeth	
Leeds	The Mayor.
Macclesfield	The Mayor.
Manchester	The Boroughreeve and Constables
Mary-le-bone	
Oldham	
Sheffield	The Master Cutler.
Stockport	The Mayor.
Stoke-upon-Trent	
Stroud	
Sunderland	
Tower Hamlets	
Wolverhampton	Constable of the Deanery Manor.

SCHEDULE (D.)

Ashton-under-Lyne	The Mayor.
Bury	
Chatham	
Cheltenham	
Dudley	
Frome	
Gateshead	
Huddersfield	
Kidderminster	The High Bailiff.
Kendal	The Mayor.
Rochdale	
Salford	The Boroughreeve.
South Shields	
Tynemouth	
Wakefield	
Walsall	The Mayor.
Warrington	
Whitby	
Whitehaven	
Merthyr Tydvil	

WILL. IV.
1830.

SCHEDULE (E.)

<i>Places sharing in Election.</i>	<i>With what Towns to share.</i>
Amlwch, Holyhead, Llangefni	Beaumaris.
Aberystwith, Lampeter, Adpar	Cardigan.
Llanelly	Caermarthen.
Pwllheli, Nevin, Conway, Bangor, Criccieth..	Caernarvon.
Ruthin, Holt, Town of Wrexham ...	Denbigh.
Rhyddlan, Overton, Caerwis, Caergwrley, St.	
Asaph, Holywell, Mold	Flint.
Cowbridge, Llantrissant	Cardiff.
Llanidloes, Welsh Pool, Machynlleth, Llanfyllin, Newtown ..	Montgomery.
Narberth, Fishguard.....	Haverfordwest.
Tenby, Wiston, Town of Milford.....	Pembroke.
Knighton, Rhayder, Kevinleece, Knucklas, Town of Presteigne	Radnor.

FORMS of NOTICES applicable to COUNTIES.

SCHEDULE (H.), No. 1.

NOTICE of the MAKING OUT of the LISTS to be given by the
OVERSEERS.

We hereby give notice, that we shall, on or before the last day of July in this year, make out a list of all persons entitled to vote in the election of a knight or knights of the shire for the county of ——— [or for the ——— riding, parts, or division of the county of ——— as the case may be], in respect of property situate wholly or in part within this parish [or township]; and all persons so entitled are hereby required to deliver or transmit to us, on or before the twentieth day of July in this year, a claim in writing, containing their christian name and surname, their place of abode, the nature of their qualification, and the name of the street, lane, or other like place wherein the property in respect of which they claim to vote is situated; and if the property be not situated in any street, lane, or other like place, then such claim must describe the property by the name by which it is usually known, or by the name of the tenant occupying the same; and each of such persons so claiming must also at the same time pay to us the sum of one shilling. Persons omitting to deliver or transmit such claim, or to make such payment, will be excluded from the register of voters for this county [or riding, parts, or division, as the case may be]. [In subsequent years after one thousand eight hundred and thirty-two, add the following words, “but persons whose names are now on the register are not required to make a fresh claim so long as they retain the same qualification and continue in the same place of abode as described in the register.”]

(Signed)

A.B.	} Overseers of the parish
C.D.	
E.F.	

[or township] of ———

No. 2.

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1830.

NOTICE of CLAIM to be given to the OVERSEERS.

I hereby give you notice, that I claim to be inserted in the list of voters for the county of ——— [or for the ——— riding, parts, or division of the county of ——— *as the case may be*], and that the particulars of my place of abode and qualification are stated below. Dated the ——— day of ——— in the year ———

(Signed) John Adams.

Place of abode, Cheapside, London.

Nature of qualification, freehold house, [or warehouse, stable, land, field, annuity, rent-charge, &c. *as the case may be, giving such a description of the property as may serve to identify it.*]

Where situate in this parish [or township], King Street. [If the property be not situate in any street, lane, or other like place, then say "name of the property, Highfield farm," or "name of the occupying tenant, John Edwards."]

No. 4.

NOTICE of OBJECTION to be given to the OVERSEERS.

To the Overseers of the parish of ——— [or township, *as the case may be*].

I hereby give you notice, that I object to the name of William Ball being retained in the list of voters for the county of ——— [or for the ——— riding, parts, or division of the county of ———]. Dated the ——— day of ——— in the year ———

(Signed) A. B. of [place of abode.]

No. 5.

NOTICE of OBJECTION to PARTIES inserted in the LIST.

To Mr. William Ball.

I hereby give you notice, that I object to your name being retained in the list of voters for the county of ——— [or for the ——— riding, parts, or division of the county of ———], and that you will be required to prove your qualification at the time of the revising of the said list. Dated the ——— day of ——— in the year ———

(Signed) A. B. of [place of abode.]

FORMS of NOTICES applicable to CITIES and BOROUGHs.

SCHEDULE (I.), No. 4.

NOTICE of CLAIM.

To the Overseers of the parish [or township] of ——— or to the town-clerk of the city [or borough] of ——— or otherwise, *as the case may be*].

I hereby give you notice, that I claim to have my name inserted in the list made by you of persons entitled to vote in the election of a member [or members] for the city [or borough] of ———, and that my qualification consists of a house in Duke Street in your parish,

WILL. IV.
1830.

[or otherwise as the case may be]; [and in the case of a freeman, say, and that my qualification is as a freeman of ———, and that I reside in Lord Street in this city or borough]. Dated the ——— day of ——— one thousand eight hundred and thirty ———.

(Signed) John Allen of [place of abode].

No. 5.

NOTICE of OBJECTION.

To the Overseers of the parish [or township] of ——— [or to the town-clerk of the city [or borough] of ——— [or otherwise, as the case may be].

I hereby give you notice, that I object to the name of Thomas Bates being retained in the list of persons entitled to vote in the election of a member [or members] for the city [or borough] of ———, and that I shall bring forward such objection at the time of the revising of such list. Dated the ——— day of ——— in the year ———

(Signed) A. B. of [place of abode].

SCHEDULE (K.), No. 1.

NOTICE of CLAIM to be given to the RETURNING OFFICER or OFFICERS of the city of London, and to the CLERKS of the respective LIVERY COMPANIES.

To the Returning Officer or Officers of the city of London [or to the Clerk of the Company of ———].

I hereby give you notice, that I claim to have my name inserted in the list made by the clerk of the company of ——— [or, in case of notice to the clerk, say, made by you] of the liverymen of the said company [or, in case of notice to the clerk, say, of the liverymen of the said company of ———] entitled to vote in the election of members for the city of London. Dated the ——— day of ———.

(Signed) A. B. { [Place of abode.
Name of company.]

No. 3.

NOTICE of OBJECTION to parties inserted in LIST of LIVERY.

To Mr. William Baker.

I hereby give you notice, that I object to your name being retained in the list of persons entitled to vote as freemen of the city of London and liverymen of the company of ——— in the election of members for the said city, and that I shall bring forward such objection at the time of revising the said list. Dated the ——— day of ———.

(Signed) A. B. [place of abode].

THE END.

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THE ancient seal with the arms of Fitzwalter, placed in the title page as an interesting memorial of this noble family, was alluded to at p. 5, under the impression then entertained that this precise seal was traced personally to that Robert Fitzwalter who was "marshall of the army of God and the holy church." Two seals of the family are in fact in existence, the one older and the other a little later than the Marshall. The first (*Archæologia*, vols. xiv. and xxi.) was used by Milo Fitzwalter one of Robert's ancestors, who sought refuge with Queen Matilda at Ludgershall, where the seal was found. The other (*Archæologia*, vol. v. p. 211), copied in our title, seems personally traced to Robert Fitzwalter, grandson of the Marshall, and born in 1249. The Barons Fitzwalter, as owners of Baynard's Castle, held in fee the office of banner-bearer to the city of London, and the figure is arrayed according to an old record of that officer's appearance. The family arms are Or, a fesse between two chevrons gules, as shown on the trappings; the shield under the horse's head bearing a wife's coat. Has the dragon beneath the horse's hoofs any allegorical allusion to the triumph of the head of the family over the despotic principle which sought to enslave his country?

At page 135, *for* "this statute forms," &c. *read* "may warrant a similar appellation for his English ancestor."

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1833.

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